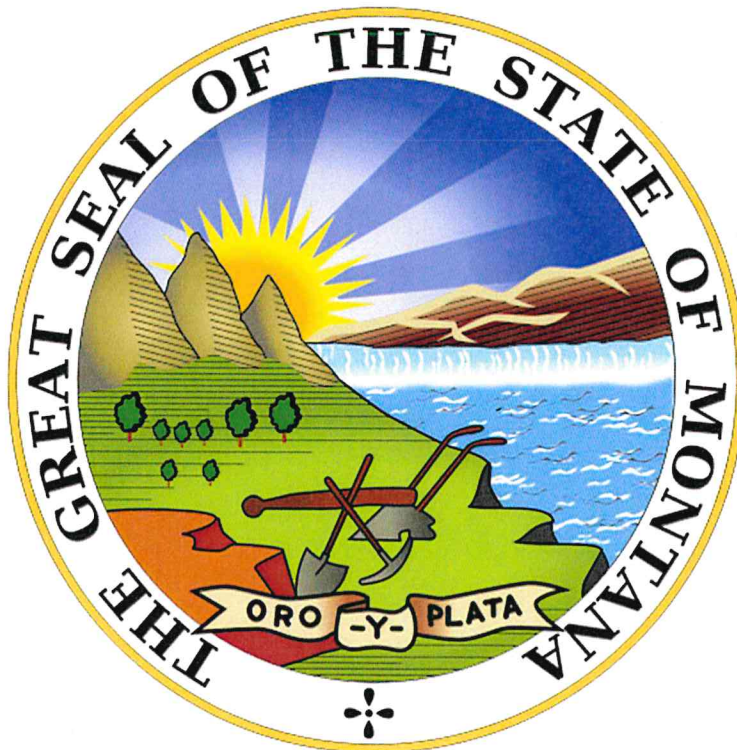


STATE OF MONTANA

State Rehabilitation Council Manual

Updated March 2020



State Rehabilitation Council Manual

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<http://dphhs.mt.gov/detd/vocrehab/mvrcouncil>

Acronyms used by Vocational Rehabilitation and Blind Services

March 2020

| | |
|---------|---|
| ADA | Americans with Disabilities Act |
| ARM | Administrative Rules of Montana |
| AT | Assistive Technology |
| BEP | Business Enterprise Program |
| BIAM | Brain Injury Association of Montana |
| BLVS | Blind and Low Vision Services |
| CANAR | Consortia of Administrators for Native American Rehabilitation |
| CAP | Client Assistance Program |
| CARF | Commission on Accreditation of Rehabilitation Facilities |
| CIL | Center for Independent Living |
| COLA | Cost of Living Adjustment |
| CRC | Certified Rehabilitation Counselor |
| CRP | Community Rehabilitation Program |
| CSAVR | Council of State Administrators of Vocational Rehabilitation |
| CSPD | Comprehensive System of Personnel Development |
| DDP | Developmental Disabilities Program |
| DDS | Disability Determination Services |
| DETD | Disability Employment and Transitions Division |
| DLO | Disability Level/Order of Selection Priority |
| DPHHS | Department of Public Health and Human Services |
| DRM | Disability Rights Montana ("home" of the Client Assistance Program) |
| DSE | Designated State Entity (used for IL) |
| DSU | Designated State Unit |
| EE | Extended Employment |
| EPP | Executive Planning Process (to build the Governor's budget) |
| HIPAA | Health Insurance Portability and Accountability Act of 1996 |
| IDEA | Individuals with Disabilities Education Act |
| IEP | Individualized Education Program (used in schools) |
| IL | Independent Living |
| IPE | Individualized Plan for Employment (used in VRBS) |
| IRWE | Impairment Related Work Expenses (Social Security) |
| JAN | Job Accommodation Network |
| LIFTT | Living Independently for Today & Tomorrow (CIL in Billings) |
| MAB | Montana Association for the Blind |
| MACS | Montana Accounting and Case System (for VRBS) |
| MAD | Montana Association of the Deaf |
| MAR | Montana Association for Rehabilitation |
| MBEI | Montana Business Enterprises, Inc. (BEP nominee agency) |
| MCA | Montana Codes Annotated |
| MCDD | Montana Council on Developmental Disabilities |
| MDC | Montana Developmental Center |
| MILP | Montana Independent Living Project (CIL in Helena) |
| MonTECH | Montana Technology Program |
| MSDB | Montana School for the Deaf and Blind |
| MTAP | Montana Telecommunication Access Program |
| MYLF | Montana Youth Leadership Forum |

| | |
|-------------|--|
| NAMI | National Association for Mentally Ill |
| NCILS | North Central Independent Living Services (CIL in Great Falls) |
| NCSRC | National Coalition of State Rehabilitation Councils |
| NFB | National Federation of the Blind |
| OBP | Older Blind Program |
| OBPP | Office of Budget & Program Planning |
| OJT | On the Job Training |
| O&M | Orientation & Mobility (navigation & cane training for those with visual impairment or blindness) |
| OOS | Order of Selection |
| OPI | Office of Public Instruction |
| OSERS | Office of Special Education & Rehabilitation Services |
| PASS | Plan for Achieving Self Sufficiency (Social Security) |
| Pre-ETS | Pre-Employment Transitions Services (new under WIOA) |
| PTI | Parent Training & Information Center - Montana |
| RFP | Request for Proposals |
| RSA | Rehabilitation Services Administration (our federal partner) |
| SE | Supported Employment |
| Section 110 | Major funding source for VRBS (federal funds) |
| Section 121 | Native American VR Projects (funded directly by feds) |
| SILC | Statewide Independent Living Council |
| SOP | Summer Orientation Program (sponsored by MAB to provide independent living training for those who recently became blind or significant visually impaired) |
| SPIL | State Plan for Independent Living |
| SRC | State Rehabilitation Council |
| SSA | Social Security Administration |
| SSDI | Social Security Disability Insurance |
| SSI | Supplemental Security Income |
| SWIB | State Workforce Innovation Board |
| TBI | Traumatic Brain Injury |
| TTY/TDD | Text Telephone or Telephone Device for the Deaf (TTY is preferred) |
| VRBS | Vocational Rehabilitation and Blind Services (this is our program) |
| VRT | Vision Rehabilitation Therapist |
| WIA | Workforce Investment Act (replaced by WIOA in 2014) |
| WIOA | Workforce Innovation and Opportunity Act (passed in 2014) |

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State Rehabilitation Council

Mission and Vision

Reviewed October 2016

The State Rehabilitation Council Mission Statement

Mission statements describe what we do and provide that no other organization does and provides, what we are all about, the purpose of the organization and why it exists.

The State Rehabilitation Council advises the Vocational Rehabilitation and Blind Service program to improve policies, programs, and delivery of services through a collaborative effort with other agencies.

SRC Vision Statements

Vision statements are a number of statements that describe the changes we want to make in the lives of the people we serve, the differences in Montana we want to be responsible for, the ideal outcomes of our collective work and efforts. They are intended to be a reach, difficult to accomplish, and presented and worded as if they are already in place.

1. The federal criteria for funding is met each year. State matching funds are provided each biennium.
2. The hourly wage paid to VR placements is deemed to be a fair wage by the workers.
3. The order of selection is a thing of the past.
4. Consumer satisfaction with the VR program grows each year – and all VR clients are aware of and accessing the Client Assistance Program.
5. The Transition program and services are considered state-of-the art, and the best possible. Many people do what the Florida gentleman did, and call us with stories about their life-long success that they attribute to a great experience with VR services.
6. Services for VR consumers are exactly what they need to be. If clients need software, that is what they receive. As inflation affects the costs of services, the services – such as gasoline allotments – are adjusted upwards.
7. Counselors are well versed in individual disabilities, technology and career choices. They are consistently known for their great compassion for our constituents.
8. The consumer/counselor relationship is based on trust and empowerment. All choices are provided to the client, with the education necessary for the choices the consumer makes to be truly theirs.

9. The issue of losing benefits when you become employed is no longer the case.
10. Public awareness of VR issues and the availability of trained people with disabilities is well known.
11. All Montana Tribes have active and successful 121 programs and do a good job of supporting each other across the state.
12. People with disabilities are fully integrated into our society and seeing people with significant disabilities in our community is common place. They are welcomed everywhere.
13. Employers are well aware of the opportunity to hire VR clients. Our connections to the business community are strong and there are more employment opportunities than we need. Our VR clients experience long-term work commitments.
14. Schools, doctors' offices, physical therapists, hospitals, Job Service, and other likely sites all actively help spread the word about the availability of VR services and provide people with our brochures and contact information. They even recommend our services and can speak to the success of people who have utilized them.
15. Rural Montana has the VR services they need and want.

Our role and responsibilities as Council members are:

As individual members, be publicly supportive of the Program. We can do outreach to consumers, help them make connections to services, speak positively, help change stereotypes, and bring feedback about VR services to the staff. We are allies and supporters of the counselors and staff, and they trust us.

Specific activities include:

- Report to the Governor;
- Assist in the development of the state plan, help look at long-range needs;
- Review the Consumer Satisfaction Survey;
- Advise the staff on policy regarding ways to improve services using all our backgrounds and expertise.

What are we NOT responsible for? What is outside of our job description?

- We don't have the authority to speak on behalf of the Council, without permission of the Council.
- We are not the managers of the Program. For instance, we don't hire and fire counselors.
- We are not the counselors.
- We are not the money managers.

Council Operating Principles

State Rehabilitation Council

Reviewed October 2016

1. We are all equal and have something to share and contribute to the Council.
2. We demonstrate respect for each other by listening well, using attentive body language (eye contact and posture), and avoiding interrupting. We take turns speaking and no one dominates the conversation. We stay on the subject at hand and avoid ever surprising each other or staff. If something sensitive needs to be addressed, we talk to the staff prior to the meeting.
3. We appreciate the diversity among our Council – in geography, abilities, backgrounds, ages, work history, relationship with VR, etc.
4. We acknowledge that to disagree is acceptable; we honor different perspectives and points of view. We remain friends and always assume good intent by our fellow Council members and staff people.
5. We focus on the good of everyone, not individual agendas or issue advocacy.
6. We welcome questions and, at the same time, don't overuse devil advocacy.
7. We operate in a safe environment to honestly and openly share what we think and what we want.
8. We attend all meetings unless we have a conflict of great importance – and stay for the entire meeting.
9. We come prepared to our meetings by reading the materials sent in advance.
10. We utilize a Council Chair who facilitates our meetings, keeps us on task and at the same time encourages discussions, and invites concerns early on in the conversation about any proposals.
11. We utilize agendas for each meeting, so we can prepare and think about the subjects on the table in advance of the meeting. We brainstorm ideas for the next meeting agenda at the end of each meeting. We ask staff to put items on the agenda prior to the meeting and avoid bringing up un-announced proposals during announcements or public comment.
12. We make sure to always, to the best of our ability, turn problems or concerns into learning experiences for all involved.
13. We appreciate humor.
14. We bring and relay both VR success stories from people we know and our home towns, and negative concerns as well, but withhold judgement, realizing we don't know the whole story.
15. We welcome new members and make them feel comfortable and up to speed on how we work and our responsibilities.

Montana State Rehabilitation Council

General Information

Revised October 2016

Purpose of Council---The purpose of the Montana State Rehabilitation Council is to advise the VRBS program on policy and program issues, delivery of services to consumers, and methods for reaching potential consumers

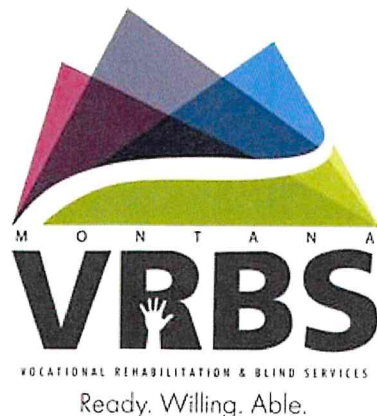
Membership of Council---The Council is composed of 22 members representing different disabilities, business, education, and advocacy groups. The members come from all parts of Montana, and over 50% of the members must have disabilities.

Meetings---The Council meets four times a year, generally in Helena. Each year the Council holds one meeting out of town. Most meetings last a day and a half. In addition, some Council members meet with VRBS management staff to help craft the agency's strategic plan. Members are reimbursed for travel expenses and also receive a small honorarium.

Activities---The Council writes an annual report to the Governor describing the status and effectiveness of the Vocational Rehabilitation and Blind Services (VRBS) program; reviews and analyzes the consumer satisfaction with the agency; advises the agency on policy and procedure; and helps to develop the agency state and strategic plans.

Vocational Rehabilitation and Blind Services---

Mission:



to maximize access to in-demand and high-quality careers by Montanans with disabilities seeking dignity through choice, integration, and self-reliance.

State Rehabilitation Council (SRC) Requirements from the Law

SRC FUNCTIONS

The SRC must perform the following functions, after consulting with the State Workforce Innovation Board. This requirement can be met, at a minimum, through the exchange of ideas between the SRC representative of the State Workforce Innovation Board and other members of the SRC.

1. Review, analyze, and advise the VR unit regarding VR's performance related to:
 - a. eligibility, including order of selection
 - b. extent, scope and effectiveness of VR services
 - c. functions performed by state agencies that affect the ability of individuals with disabilities to achieve an employment outcome.
2. In partnership with the VR unit:
 - a. Develop, agree to and review state goals and priorities
 - b. Evaluate the effectiveness of the VR program and submit annual progress reports to the RSA Commissioner.
 - c. Conduct a statewide needs assessment of individuals with disabilities living in the state every three years.
3. Advise the VR agency/unit regarding the VR activities.
4. Assist in the preparation of the state plan, amendments to the plan, applications, reports, needs assessments, and evaluations, including those necessary for the VR agency to satisfy the requirements of developing a "comprehensive system of personnel development" and establishing an "order of selection."
5. Review and analyze the effectiveness of and the consumer satisfaction with:
 - a. VR agency functions
 - b. VR services provided by the VR agency and other entities, and

- c. Employment outcomes achieved by eligible individuals served by VR
- 6. Prepare and submit an annual report to the Governor and RSA on the status of VR services. Report should be made available to the public.
- 7. Coordinate the activities of the SRC with the activities of other councils, such as the:
 - a. SILC
 - b. Advisory panel established under IDEA
 - c. State Developmental Disabilities Council
 - d. State Mental Health Planning Council and
 - e. State Workforce Innovation Board
- 8. Provide for the coordination and the establishment of working relationships between the VR agency and the SILC and the Centers for Independent Living.
- 9. Perform other functions that it determines appropriate and comparable to its other functions, provided they are consistent with the purpose of Title I of the Act and its implementing regulations.

VR UNIT'S MANDATE REGARDING SRC

The Act requires the designated state VR agency/unit to:

- 1. Jointly develop, agree to and review annually state goals and priorities and jointly submit annual reports of progress with the SRC;
- 2. Consult with the SRC regularly regarding the development, implementation and revision of state policies and procedures of general applicability pertaining to the provision of VR services;
- 3. Include in the state plan and any revisions to the state plan, a summary of input provided by the SRC;
- 4. Conduct a statewide needs assessment of individuals with disabilities living in the state every three years; and

5. Transmit copies of the following to the SRC:
 - a. all plans, reports and other information required to be submitted to RSA
 - b. all policies and information on practices and procedures of general applicability provided to or used by rehabilitation personnel in carrying out the VR program; and
 - c. due process hearing decisions which are to be transmitted to the SRC in such a manner as to protect the confidentiality of the individuals involved.

SRC Member Job Description

Personal characteristics to consider:

1. Ability to: listen, analyze, think clearly and creatively, work well with people individually and in a group;
2. Willing to: prepare for and attend council and committee meetings, ask questions, take responsibility and follow through on given assignments, open the doors of the community and evaluate one's self;
3. Develop certain skills if you do not already possess them, such as: abilities to cultivate and recruit council members and other volunteers for the organization, learn more about the substantive program areas this organization covers;
4. Possess: honesty, sensitivity to and tolerance of different views, friendly, responsive and patient approach, ability to build community skills and information dissemination, personal integrity, developed sense of value, concern for the development of the VR program, and most importantly a sense of humor.

Individual council member responsibilities:

1. Attend all council and committee meetings and functions unless excused-- more than two unexcused absences may result in termination of council membership;
2. Be informed of the organization's mission, services, policies, and programs;
3. Review the agenda and all supporting materials prior to council and committee meetings;
4. Serve on committees and offer to take on special assignments;
5. Inform other individuals in the community and the state about the VR organization, its goals, and its job;
6. Suggest possible nominees to the council who could make significant contributions to the work of the council and to the organization in general.
7. Keep up to date on all developments in the field of VR;
8. Follow conflict of interest and confidentiality policies.

As council members we are:

1. The voice of the VR mission;
2. Charged with expanding the sphere of influence of the organization within the state of Montana;
3. Ambassadors of the VR program; and
4. A primary partner of the VR administration.

Montana's State Rehabilitation Council is a member of National Coalition of State Rehabilitation Councils (NCSRC). Please refer to its website for more information: <https://ncsrc.net/>.

SRC Budget

The SRC budget is made up of the following:

- Member's costs to attend the four SRC meetings per year which include: lodging, mileage, per diem, honorarium, lunch, snack, accommodations, and meeting space.
- Registration and travel costs for designated members to attend the VRBS All-Staff Meeting.
- Routine mailings, copies and binder updates to SRC Members

There is not a specific budget line within the VRBS Budget for the SRC by itself. It is part of the Operations budget for VRBS.

The VRBS staff SRC liaison (Shawn) submits a detailed financial request for all expenditures, including anything for the SRC, to the Division Administrator itemizing all of the expected expenditures.

In Federal Fiscal Year 2019 (October 1, 2018-September 30, 2019) the costs to operate the SRC was \$18,131.

How VRBS Reimburses Your Travel Costs 2020

When you come to the SRC meeting, VRBS will pay your travel expenses. At the meeting, you complete a travel form, and VRBS will send you a check for your expenses within a month. The rates of reimbursement are the same as the state employees use.

Meals

VRBS will pay for your meals (depending on what hours you are in a travel status) as follows:

| | |
|-----------|---------|
| Breakfast | \$7.50 |
| Lunch | \$8.50 |
| Dinner | \$14.00 |

Motel

VRBS usually pays for motel bills directly with the motel. However, if you stay overnight and you do not have this arrangement, VRBS will pay for your motel room at the following rate:

Motel State rate--with a receipt (depends on the city and time of year)

\$12.00--with no receipt

Mileage

If you drive to the meeting, VRBS will pay for your mileage as follows:

Mileage \$0.575 per mile (2020)

Other Costs

VRBS will reimburse the actual cost of your public transportation (such as bus ticket, etc.), and you need a receipt for this.

If you need a personal attendant, driver, etc., VRBS will reimburse you for the cost according to the VRBS Reimbursement Policy.

If you are not a state employee, VRBS will pay you an honorarium of \$50 for each meeting day.

Receipts are needed for everything except meals and mileage.

Montana VRBS Policy regarding Reimbursement for Support Services for State Rehabilitation Council Members

Values:

Montana Vocational Rehabilitation and Blind Services (VRBS) highly values the input and role the State Rehabilitation Council and Statewide Independent Living Council play in implementing the mission of the agency. The agency takes the "whatever it takes, within reason" approach to have Council members participate in the Council meetings and provides reasonable accommodations for persons with disabilities so that they may participate to their fullest ability. VRBS recognizes that a "one sizes fits all" does not fit all individual Council member needs. Similarly, VRBS recognizes its responsibility to the Legislature and taxpayers to spend money prudently.

VRBS places a high value on allowing members of our State Rehabilitation Council and Statewide Independent Living Council to have discretion regarding services performed for them while they function as active Council members.

VRBS recognizes that it is often difficult to find a reliable personal services attendant or a safe driver that is willing to travel for a day trip away from their community as they may be taken away from other work.

Guiding Principles:

Council members will have discretion regarding services performed for them while they are functioning as active Council members. Examples of services performed include, but are not limited to, drivers, readers, and personal care attendants. It is the policy of VRBS that the individual Council member has the discretion to hire and pay on an hourly rate up to \$10.00 per hour for individuals who perform disability related support services for personal assistance, and up to \$8.00 for drivers. In some cases, exceptions will be considered.

If a person providing support services such as those previously mentioned needs to be available upon demand, the person may be paid an hourly rate based upon an agreement between the Council member and the attendant. Reimbursement needs are to be treated on a case by case basis and the circumstances surrounding the individual's needs should be taken into consideration. If the support person does not need to be in the vicinity but is waiting for the Council member to complete their business, the person would generally not be eligible for reimbursement. For example, if a personal

assistance attendant or driver uses their time in Helena to go shopping and run errands and is clearly not available upon demand and in the vicinity, this "down time" would not be reimbursed. However, "in the vicinity" can sometimes include being available by a cell phone call.

Per diem and meal allowance will be at the same rate as that paid for State of Montana employees.

Support services other than those mentioned can be paid at different rates depending on the complexity of the level of support staff. For example, interpreters are paid in accordance with the existing fee schedules. Other categories of support service having other degrees or skill levels necessary may warrant different wages.

The individual Council member is responsible for making his/her own arrangements and accommodations regarding support services (other than interpreters) that will be necessary for them. They will employ the personal care attendants and drivers, and will pay them for their services in accordance with this policy. VRBS will reimburse the individual Council member for these costs.

VRBS strongly encourages coordination among Council members regarding transportation and other services whenever possible to minimize the costs.

It is permissible under VRBS policy for an individual Council member to utilize the services of a family member if that person is the most appropriate one to provide the services. Also, it is the policy of VRBS that support service paid by VRBS may not be reimbursed by another entity.

Travel Voucher Worksheet

Purpose of Travel: State Rehabilitation Council

Name: _____ **SSN:** _____
Address: _____ **Phone:** _____

Departing from Home

Date: _____ **Time:** _____

Mode of Transportation

Private Car Mileage: _____ (**# of Miles Round Trip**)

Commercial Transportation: \$ _____ (**Attach Receipt**)

Lodging: \$ N/A (**Based on state rates with receipt; \$12 without receipt**)

Arriving at Home:

Date: _____ **Time:** _____

Miscellaneous: \$ _____
(**Please detail any additional itemized expenses**)

Signature of Council Member _____ **Date** _____

Bill for Driving Services

Driver Name _____ Driver SSN _____

Council Member being driven _____

Date I drove the Council Member TO the meeting _____

Number of hours driving _____

Other expenses (list) _____

Date I drove the Council Member home FROM the meeting _____

Number of hours driving _____

Other expenses (list) _____

Totals

Number of hours driving _____

Charge for driving @ \$10.00 per hour _____

Other expenses _____

Total bill _____

I certify that I am not being reimbursed for these services from any other funding source.

Signed by Driver _____ Date _____

Note: The SRC will reimburse the Council member who then pays the driver directly.

BILL FOR PCA SERVICES

PCA Name: _____ PCA SSN: _____

Council member receiving PCA Services: _____

Date I started PCA Services for SRC Meeting: _____

Number of hours worked: _____

Other Expenses list): _____

Additional days/hours worked: _____

Date I completed PCA Services for SRC Meeting _____

Number of hours worked: _____

Other Expenses (list): _____

Totals:

Number of hours worked: _____

Charge of PCA Services @ \$10.00 per hour: _____

Other Expenses: _____

Total Bill: _____

I certify that I am not being reimbursed for these services from any other funding source.

PCA Signature _____ Date _____

NOTE: SRC will reimburse the council member who then pays the PCA directly.

CONSTITUTION/BYLAWS

MONTANA STATE REHABILITATION COUNCIL

ARTICLE I NAME

The name of the Council shall be: Montana State Rehabilitation Council, as mandated by Public Law 102-569, and other appropriate laws.

ARTICLE II PURPOSE

The purpose of the Council is to advise the Administrator of the Montana Vocational Rehabilitation and Blind Services program (VRBS) concerning policy and program issues, delivery of services to consumers, and methods for reaching potential consumers.

ARTICLE III STATUTORY FUNCTIONS

FUNCTIONS OF THE COUNCIL - The Council shall, after consulting with the State Workforce Innovation Board -

1. Review, analyze, and advise VRBS regarding its performance; particularly in areas relating to -
 - (A) Eligibility (including order of selection);
 - (B) The extent, scope, and effectiveness of services provided; and
 - (C) Functions performed by state agencies that affect or potentially affect the ability of Montanans with disabilities in achieving employment outcomes.
2. In partnership with the VRBS,
 - (A) Develop, agree to, and review state goals and priorities;
 - (B) Review the effectiveness of the Vocational Rehabilitation and Blind Services program and submit reports of progress to the Commissioner of the federal Rehabilitation Services Administration.
3. Advise the Department of Public Health and Human Services and VRBS and, assist in the preparation of applications, the State Plan, the Strategic Plan and amendments to the plans, reports, statewide needs assessments,

and evaluations required by the Rehabilitation Act.

4. To the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with -
 - (A) The functions performed by VRBS;
 - (B) Vocational rehabilitation services provided by state agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities;
 - (C) Employment outcomes achieved by eligible individuals receiving VRBS services, including the availability of health and other employment benefits in connection with such employment outcomes.
5. Prepare and submit an annual report to the Governor on the status of vocational rehabilitation programs operated within the state and make the report available to the public.
6. Coordinate with other councils within the state, including the Statewide Independent Living Council established under Section 705 of the Rehabilitation Act, the Advisory Panel established under Section 612 (a)(21) of the Individuals with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Pubic Health Law 105-17), the State Planning Council described in Section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), and the State Mental Health Planning Council established under Section 1914(a) of the Public Health Service Act (42 U.S.C. 300x-4(a)), and the State Workforce Investment Board.
7. Provide for coordination and the establishment of working relationships between VRBS and the Statewide Independent Living Council and Centers for Independent Living within the state.
8. Perform such other functions, consistent with the purposes of this title, as the Montana State Rehabilitation Council determines to be appropriate, that are comparable to the other functions performed by the Council.
9. The meetings of the full committee, hearings and forums shall be publicly announced.

ARTICLE IV GOALS

1. Facilitate informed communication between regional and state staff on

policy and program issues.

2. Provide information to VRBS on the effect of its programs on the community as well as on consumers.
3. Facilitate public input into state and regional planning for vocational rehabilitation services.
4. Advocate for consumer rights and services.
5. Communicate the purpose and needs of VRBS to the public and community leaders.
6. Support VRBS in its efforts to expand resources available to individuals with disabilities.
7. Advise VRBS on other issues as requested.

ARTICLE V MEMBERSHIP

COMPOSITION AND APPOINTMENT

1. Composition - The Council shall be composed of -
 - At least one representative of the Statewide Independent Living Council established under Section 705 of the Rehabilitation Act as amended, which representative may be the Chairperson or other designee of the Council;
 - At least one representative of a parent training and information center established pursuant to Section 682(a) of the Individuals with Disabilities Education Act (as added by Section 101 of the IDEA Amendments of 1997; Public Law 105-17);
 - At least one qualified representative of the Client Assistance Program established under Section 112 of the Reauthorization of the Rehabilitation Act (1992);
 - At least one qualified Vocational Rehabilitation Counselor with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the Counselor is an employee of VRBS;
 - At least one representative of community rehabilitation program service providers;
 - Four representatives of business, industry and labor;
 - Representatives of disability advocacy groups representing a cross

section of -

- Individuals with physical, cognitive, sensory, and mental disabilities; and
- Representatives of individuals with disabilities who have difficulty in representing themselves or are unable, due to their disabilities, to represent themselves;
- Current or former applicants for, or recipients of, vocational rehabilitation services;
- At least one representative of the directors of Native American VR Projects ("Section 121" projects) in Montana;
- At least one representative of the state educational agency responsible for the public education of students with disabilities who are eligible to receive services under this title and the IDEA; and
- At least one representative of the State Workforce Investment Board.

Members of the Council may meet one or more of the composition guidelines as set out above.

2. Ex officio Member - the Administrator of VRBS shall be an ex officio member of the Council.
3. Appointment - Members of the Council shall be appointed by the Governor. The Governor shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the Governor shall consider, the greatest extent practicable, of the extent to which minority populations are represented on the Council.
4. Qualifications - A majority of Council members shall be persons who are -
 - (A) Individuals with disabilities as described in Section 7(20)(A) of the Rehabilitation Act of 1998; and
 - (B) Not employed by VRBS.
5. Terms of Appointment -
 - (A) Length of Term - Each member of the Council shall serve for a term of not more than three (3) years, except that -
 - (i) A member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and
 - (ii) The terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on

a staggered basis.

- (B) Number of terms - No member of the Council, other than the Client Assistance Project representative and the Native American VR Project director, may serve more than two consecutive terms.
6. Vacancies - Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.
 7. Conflict of Interest - No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under state law.
 8. Compensation and Expenses - The Council will use funds appropriated under this title to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation honorariums.
 9. If a member has two unexcused absences out of the four (4) regularly scheduled meetings, the Council may vote to discontinue the individual's membership on the Council.
 10. All members have equal voting rights except ex officio members.
 11. The Council will function as a body. An individual member may not represent the Council without the expressed approval of the Council as a whole. The Chairperson or the Administrator of VRBS will be authorized to speak for the Council or may authorize members to act as a public spokesperson.

ARTICLE VI MEETINGS & FORUMS

1. There shall be four (4) quarterly meetings each year. Scheduled meetings may be canceled due to bad weather or other extenuating circumstances. Meeting dates shall be specifically designated and planned in advance.
2. Robert's Rules of Order Revised shall be the accepted parliamentary authority except as modified and supplemented in the Bylaws.

3. A quorum shall consist of at least a majority of voting members. To conduct the business of the Council, other than statutory functions, it will take a majority vote.
4. To approve or take any final action on a statutory function, it will take a majority vote of the membership of the Council. Members of the Council may vote on statutory functions by paper ballot through the mail.
5. The Council shall convene at least four (4) meetings per year in such places as it determines necessary to conduct business. The Council may conduct forums and hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

ARTICLE VII OFFICERS

1. Chairperson - Subject to the control of the Council, the Chairperson shall preside according to Robert's Rules of Order, Revised. He/she shall establish appropriate subcommittees, make appointments thereto, and shall have such other powers and duties as may be prescribed from time to time by the Council.
2. Vice Chairperson - In the absence of the Chairperson, the Vice Chairperson shall perform all duties of the Chairperson and in so acting shall have all the power of the Chairperson.
3. The Administrator of VRBS or his/her designee will conduct the meeting in the absence of both the Chairperson and Vice Chairperson.

ARTICLE VIII ELECTIONS

1. Officers shall be elected by secret ballot at the first meeting of the calendar year. If a vacancy occurs within the Chairperson or Vice Chairperson, that position will be filled at the next regularly scheduled meeting.
2. The Chairperson shall be elected to serve a term of one (1) year.
3. The Vice Chairperson shall be elected to serve a term of one (1) year.

ARTICLE IX SUBCOMMITTEES

1. Standing subcommittees will be established by the Council when and if the Council determines they are necessary.
2. Ad hoc subcommittees shall be created by the Chairperson for specific functions and will cease to operate when the need is met.
3. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

ARTICLE X COMMUNICATION

1. The Council shall prepare and distribute minutes of each meeting as soon as feasible after that meeting. Notice of next meeting and location shall be made through this report.

ARTICLE XI RESOURCE PLAN

1. Plan - The Council should plan for the provision of such resources, including such staff and personnel, as may be necessary to carry out the functions of the Council under this section.
2. Resolution of disagreements - To the extent that there is a disagreement between the Council and VRBS in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor or appointing agency consistent with paragraph one (1).
3. Personnel conflict of interest - While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the Department of Public Health and Human Services or any other agency or office of the state that would create a conflict of interest.

ARTICLE XII AMENDMENTS

This Constitution/Bylaws may be amended in whole or in part by submitting to all members such amendments in writing two (2) weeks prior to any regular meeting. Amendments may be adopted by a two-thirds vote of the members of the Council.

The foregoing Constitution/Bylaws were amended by the Montana State Rehabilitation Council on May 8, 2015.

REHABILITATION ACT

SEC. 105. STATE REHABILITATION COUNCIL.

(a) ESTABLISHMENT-

(1) IN GENERAL- Except as provided in section 101(a)(21)(A)(I), to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Council (referred to in this section as the "Council") in accordance with this section.

(2) SEPARATE AGENCY FOR INDIVIDUALS WHO ARE BLIND- A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(2)(A)(I) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

(b) COMPOSITION AND APPOINTMENT-

(1) COMPOSITION-

(A) IN GENERAL- Except in the case of a separate Council established under subsection (a)(2), the Council shall be composed of--

(i) at least one representative of the Statewide Independent Living Council established under section 705, which representative may be the chairperson or other designee of the Council;

(ii) at least one representative of a parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17);

(iii) at least one representative of the client assistance

program established under section 112;

(iv) at least one qualified vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

(v) at least one representative of community rehabilitation program service providers;

(vi) four representatives of business, industry, and labor;

(vii) representatives of disability advocacy groups representing a cross section of--

(I) individuals with physical, cognitive, sensory, and mental disabilities; and

(II) individuals' representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves;

(viii) current or former applicants for, or recipients of, vocational rehabilitation services;

(ix) in a State in which one or more projects are carried out under section 121, at least one representative of the directors of the projects;

(x) at least one representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services under this title and part B of the Individuals with Disabilities Education Act; and

(xi) at least one representative of the State workforce investment board.

(B) SEPARATE COUNCIL- In the case of a separate Council established under subsection (a)(2), the Council shall be composed of--

(i) at least one representative described in subparagraph (A)(I);

(ii) at least one representative described in subparagraph (A)(ii);

(iii) at least one representative described in subparagraph (A)(iii);

(iv) at least one vocational rehabilitation counselor described in subparagraph (A)(iv), who shall serve as described in such subparagraph;

(v) at least one representative described in subparagraph (A)(v);

(vi) four representatives described in subparagraph (A)(vi);

(vii) at least one representative of a disability advocacy group representing individuals who are blind;

(viii) at least one individual's representative, of an individual who--

(I) is an individual who is blind and has multiple disabilities; and

(II) has difficulty in representing himself or herself or is unable due to disabilities to represent himself or herself;

(ix) applicants or recipients described in subparagraph (A)(viii);

(x) in a State described in subparagraph (A)(ix), at least one representative described in such subparagraph;

(xi) at least one representative described in subparagraph (A)(x); and

(xii) at least one representative described in subparagraph (A)(xi).

(C) EXCEPTION- In the case of a separate Council established under subsection (a)(2), any Council that is required by State law, as in effect on the date of enactment of the Rehabilitation Act Amendments of 1992, to have fewer than 15 members shall be deemed to be in compliance with subparagraph (B) if the Council--

(i) meets the requirements of subparagraph (B), other than the requirements of clauses (vi) and (ix) of such subparagraph; and

(ii) includes at least--

(I) one representative described in subparagraph (B)(vi); and

(II) one applicant or recipient described in subparagraph (B)(ix).

(2) EX OFFICIO MEMBER- The Director of the designated State unit shall be an ex officio, nonvoting member of the Council.

(3) APPOINTMENT- Members of the Council shall be appointed by the Governor. The Governor shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the Governor shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Council.

(4) QUALIFICATIONS-

(A) IN GENERAL- A majority of Council members shall be persons who are--

(i) individuals with disabilities described in section 7(20)(A); and

(ii) not employed by the designated State unit.

(B) SEPARATE COUNCIL- In the case of a separate Council established under subsection (a)(2), a majority of Council members shall be persons who are--

(i) blind; and

(ii) not employed by the designated State unit.

(5) CHAIRPERSON-

(A) IN GENERAL- Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

(B) DESIGNATION BY GOVERNOR- In States in which the chief executive officer does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

(6) TERMS OF APPOINTMENT-

(A) LENGTH OF TERM- Each member of the Council shall serve for a term of not more than 3 years, except that--

(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

(ii) the terms of service of the members initially appointed shall be (as specified by the Governor) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(B) NUMBER OF TERMS- No member of the Council, other than a representative described in clause (iii) or (ix) of paragraph (1)(A), or clause (iii) or (x) of paragraph (1)(B), may serve more than two consecutive full terms.

(7) VACANCIES-

(A) IN GENERAL- Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(B) DELEGATION- The Governor may delegate the authority to fill such a vacancy to the remaining members of the Council after making the original appointment.

(c) FUNCTIONS OF COUNCIL- The Council shall, after consulting with the State workforce investment board--

(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this title, particularly responsibilities relating to--

(A) eligibility (including order of selection);

(B) the extent, scope, and effectiveness of services provided; and

(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving employment outcomes under this title;

(2) in partnership with the designated State unit--

(A) develop, agree to, and review State goals and priorities in accordance with section 101(a)(15)(C); and

(B) evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Commissioner in accordance with section 101(a)(15)(E);

(3) advise the designated State agency and the designated State unit regarding activities authorized to be carried out under this title, and assist in the preparation of the State plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by this title;

(4) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with--

(A) the functions performed by the designated State agency;

(B) vocational rehabilitation services provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under this Act; and

(C) employment outcomes achieved by eligible individuals receiving services under this title, including the availability of health and other employment benefits in connection with such employment outcomes;

(5) prepare and submit an annual report to the Governor and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

(6) to avoid duplication of efforts and enhance the number of

individuals served, coordinate activities with the activities of other councils within the State, including the Statewide Independent Living Council established under section 705, the advisory panel established under section 612(a)(21) of the Individual with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17), the State Developmental Disabilities Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), the State mental health planning council established under section 1914(a) of the Public Health Service Act (42 U.S.C. 300x-4(a)), and the State workforce investment board;

(7) provide for coordination and the establishment of working relationships between the designated State agency and the Statewide Independent Living Council and centers for independent living within the State; and

(8) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Council determines to be appropriate, that are comparable to the other functions performed by the Council.

(d) RESOURCES-

(1) PLAN- The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary and sufficient to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

(2) RESOLUTION OF DISAGREEMENTS- To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor consistent with paragraph (1).

(3) **SUPERVISION AND EVALUATION-** Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

(4) **PERSONNEL CONFLICT OF INTEREST-** While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

(e) CONFLICT OF INTEREST- No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

(f) MEETINGS- The Council shall convene at least four meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

(g) COMPENSATION AND EXPENSES- The Council may use funds allocated to the Council by the designated State unit under this title (except for funds appropriated to carry out the client assistance program under section 112 and funds reserved pursuant to section 110(c) to carry out part C) to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

(h) HEARINGS AND FORUMS- The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

§ 361.16 Establishment of an independent commission or a state rehabilitation council.

(a) General requirement. Except as provided in paragraph (b) of this section, the State plan must contain one of the following two assurances:

(1) An assurance that the designated State agency is an independent State commission that—

(i) Is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State and is primarily concerned with vocational rehabilitation or vocational and other rehabilitation services, in accordance with § 361.13(a)(1)(i);

(ii) Is consumer-controlled by persons who—

(A) Are individuals with physical or mental impairments that substantially limit major life activities; and

(B) Represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the commission is the State agency for individuals who are blind;

(iii) Includes family members, advocates, or other representatives of individuals with mental impairments; and

(iv) Conducts the functions identified in § 361.17(h)(4).

(2) An assurance that—

(i) The State has established a State Rehabilitation Council (Council) that meets the requirements of § 361.17;

(ii) The designated State unit, in accordance with § 361.29, jointly develops, agrees to, and reviews annually State goals and priorities and jointly submits to the Secretary annual reports of progress with the Council;

(iii) The designated State unit regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;

(iv) The designated State unit transmits to the Council—

(A) All plans, reports, and other information required under this part to be submitted to the Secretary;

(B) All policies and information on all practices and procedures of general applicability provided to or used by rehabilitation personnel providing vocational rehabilitation services under this part; and

(C) Copies of due process hearing decisions issued under this part and transmitted in a manner to ensure that the identity of the participants in the hearings is kept confidential; and

(v) The State plan, and any revision to the State plan, includes a summary of input provided by the Council, including recommendations from the annual report of the Council, the review and analysis of consumer satisfaction described in § 361.17(h)(4), and other reports prepared by the Council, and the designated State unit's response to the input and recommendations, including explanations of reasons for rejecting any input or recommendation of the Council.

(b) Exception for separate State agency for individuals who are blind. In the case of a State that designates a separate State agency under § 361.13(a)(3) to administer the part of the State plan under which vocational rehabilitation services are provided to individuals who are blind, the State must either establish a separate State Rehabilitation Council for each agency that does not meet the requirements in paragraph (a)(1) of this section or establish one State Rehabilitation Council for both agencies if neither agency meets the requirements of paragraph (a)(1) of this section.

§ 361.17 Requirements for a state rehabilitation council.

If the State has established a Council under § 361.16(a)(2) or (b), the Council must meet the following requirements:

(a) Appointment.

(1) The members of the Council must be appointed by the Governor or, in the case of a State that, under State law, vests authority for the administration of the activities carried out under this part in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity.

(2) The appointing authority must select members of the Council after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the appointing authority must consider, to the greatest extent practicable, the extent to which minority populations are represented on the Council.

(b) Composition—

(1) General. Except as provided in paragraph (b)(3) of this section, the Council must be composed of at least 15 members, including—

- (i) At least one representative of the Statewide Independent Living Council, who must be the chairperson or other designee of the Statewide Independent Living Council;
- (ii) At least one representative of a parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act;
- (iii) At least one representative of the Client Assistance Program established under 34 CFR part 370, who must be the director of or other individual recommended by the Client Assistance Program;
- (iv) At least one qualified vocational rehabilitation counselor with knowledge of and experience with vocational rehabilitation programs who serves as an ex officio, nonvoting member of the Council if employed by the designated State agency;
- (v) At least one representative of community rehabilitation program service providers;
- (vi) Four representatives of business, industry, and labor;
- (vii) Representatives of disability groups that include a cross section of—

(A) Individuals with physical, cognitive, sensory, and mental disabilities; and

(B) Representatives of individuals with disabilities who have difficulty representing themselves or are unable due to their disabilities to represent themselves;

(viii) Current or former applicants for, or recipients of, vocational rehabilitation services;

(ix) In a State in which one or more projects are carried out under section 121 of the Act (American Indian Vocational Rehabilitation Services), at least one representative of the directors of the projects;

(x) At least one representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services under this part and part B of the Individuals with Disabilities Education Act;

(xi) At least one representative of the State workforce investment board;
and

(xii) The director of the designated State unit as an ex officio, nonvoting member of the Council.

(2) Employees of the designated State agency. Employees of the designated State agency may serve only as nonvoting members of the Council. This provision does not apply to the representative appointed pursuant to paragraph (b)(1)(iii) of this section.

(3) Composition of a separate Council for a separate State agency for individuals who are blind. Except as provided in paragraph (b)(4) of this section, if the State establishes a separate Council for a separate State agency for individuals who are blind, that Council must—

(i) Conform with all of the composition requirements for a Council under paragraph (b)(1) of this section, except the requirements in paragraph (b)(1)(vii), unless the exception in paragraph (b)(4) of this section applies;
and

(ii) Include—

(A) At least one representative of a disability advocacy group representing individuals who are blind; and

(B) At least one representative of an individual who is blind, has multiple disabilities, and has difficulty representing himself or herself or is unable due to disabilities to represent himself or herself.

(4) Exception. If State law in effect on October 29, 1992 requires a separate Council under paragraph (b)(3) of this section to have fewer than 15 members, the separate Council is in compliance with the composition requirements in paragraphs (b)(1)(vi) and (b)(1)(viii) of this section if it includes at least one representative who meets the requirements for each of those paragraphs

(c) Majority.

(1) A majority of the Council members must be individuals with disabilities who meet the requirements of § 361.5(b)(29) and are not employed by the designated State unit.

(2) In the case of a separate Council established under § 361.16(b), a majority of the Council members must be individuals who are blind and are not employed by the designated State unit.

(d) Chairperson. The chairperson must be—

(1) Selected by the members of the Council from among the voting members of the Council, subject to the veto power of the Governor; or

(2) In States in which the Governor does not have veto power pursuant to State law, the appointing authority described in paragraph (a)(1) of this section must designate a member of the Council to serve as the chairperson of the Council or must require the Council to designate a member to serve as chairperson.

(e) Terms of appointment.

(1) Each member of the Council must be appointed for a term of no more than 3 years, and each member of the Council, other than a representative identified in paragraph (b)(1)(iii) or (ix) of this section, may serve for no more than two consecutive full terms.

(2) A member appointed to fill a vacancy occurring prior to the end of the term for which the predecessor was appointed must be appointed for the remainder of the predecessor's term.

(3) The terms of service of the members initially appointed must be, as specified by the appointing authority as described in paragraph (a)(1) of this section, for varied numbers of years to ensure that terms expire on a staggered basis.

(f) Vacancies.

(1) A vacancy in the membership of the Council must be filled in the same manner as the original appointment, except the appointing authority as described in paragraph (a)(1) of this section may delegate the authority to fill that vacancy to the remaining members of the Council after making the original appointment.

(2) No vacancy affects the power of the remaining members to execute the duties of the Council.

(g) Conflict of interest. No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or the member's organization or otherwise give the appearance of a conflict of interest under State law.

(h) Functions. The Council must, after consulting with the State workforce investment board—

(1) Review, analyze, and advise the designated State unit regarding the performance of the State unit's responsibilities under this part, particularly responsibilities related to—

(i) Eligibility, including order of selection;

(ii) The extent, scope, and effectiveness of services provided; and

(iii) Functions performed by State agencies that affect or potentially affect the ability of individuals with disabilities in achieving employment outcomes under this part;

(2) In partnership with the designated State unit—

(i) Develop, agree to, and review State goals and priorities in accordance with § 361.29(c); and

(ii) Evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Secretary in accordance with § 361.29(e);

(3) Advise the designated State agency and the designated State unit regarding activities carried out under this part and assist in the preparation of the State plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by this part;

(4) To the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

(i) The functions performed by the designated State agency;

(ii) The vocational rehabilitation services provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under the Act; and

(iii) The employment outcomes achieved by eligible individuals receiving services under this part, including the availability of health and other employment benefits in connection with those employment outcomes;

(5) Prepare and submit to the Governor and to the Secretary no later than 90 days after the end of the Federal fiscal year an annual report on the status of vocational rehabilitation programs operated within the State and make the report available to the public through appropriate modes of communication;

(6) To avoid duplication of efforts and enhance the number of individuals served, coordinate activities with the activities of other councils within the State, including the Statewide Independent Living Council established under 34 CFR part 364, the advisory panel established under section 612(a)(21) of the Individuals with Disabilities Education Act, the State Developmental Disabilities Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act, the State mental health planning council established under section 1914(a) of the Public Health Service Act, and the State workforce investment board;

(7) Provide for coordination and the establishment of working relationships between the designated State agency and the Statewide Independent Living Council and centers for independent living within the State; and

(8) Perform other comparable functions, consistent with the purpose of this part, as the Council determines to be appropriate, that are comparable to the other functions performed by the Council.

(i) Resources.

(1) The Council, in conjunction with the designated State unit, must prepare a plan for the provision of resources, including staff and other personnel, that may be necessary and sufficient for the Council to carry out its functions under this part.

(2) The resource plan must, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

(3) Any disagreements between the designated State unit and the Council regarding the amount of resources necessary to carry out the functions of the Council must be resolved by the Governor, consistent with paragraphs (i)(1) and (2) of this section.

(4) The Council must, consistent with State law, supervise and evaluate the staff and personnel that are necessary to carry out its functions.

(5) Those staff and personnel that are assisting the Council in carrying out its functions may not be assigned duties by the designated State unit or any other agency or office of the State that would create a conflict of interest.

(j) Meetings. The Council must—

(1) Convene at least four meetings a year in locations determined by the Council to be necessary to conduct Council business. The meetings must be publicly announced, open, and accessible to the general public, including individuals with disabilities, unless there is a valid reason for an executive session; and

(2) Conduct forums or hearings, as appropriate, that are publicly announced, open, and accessible to the public, including individuals with disabilities.

(k) Compensation. Funds appropriated under Title I of the Act, except funds to carry out sections 112 and 121 of the Act, may be used to compensate and reimburse the expenses of Council members in accordance with section 105(g) of the Act.

State Rehabilitation Council Applying for Membership

The Governor appoints members to the State Rehabilitation Council, and he uses an online application process.

To apply to serve on the Council, go to <http://svc.mt.gov/gov/boards/> and click on "Apply or Recommend."

Complete the application and submit it (either by mailing to the Office of Governor or submit online). The mailing address can be found on the website under "Contact us."

They are also requesting a brief resume and cover letter. When it asks what council you are applying for, you will want to choose State Rehabilitation Council.

Montana Law—Public Participation

2-3-103. Public participation -- governor to ensure guidelines adopted. (1) (a) Each agency shall develop procedures for permitting and encouraging the public to participate in agency decisions that are of significant interest to the public. The procedures must ensure adequate notice and assist public participation before a final agency action is taken that is of significant interest to the public. The agenda for a meeting, as defined in 2-3-202, must include an item allowing public comment on any public matter that is not on the agenda of the meeting and that is within the jurisdiction of the agency conducting the meeting. However, the agency may not take action on any matter discussed unless specific notice of that matter is included on an agenda and public comment has been allowed on that matter. Public comment received at a meeting must be incorporated into the official minutes of the meeting, as provided in 2-3-212.

(b) For purposes of this section, "public matter" does not include contested case and other adjudicative proceedings.

(2) The governor shall ensure that each board, bureau, commission, department, authority, agency, or officer of the executive branch of the state adopts coordinated rules for its programs. The guidelines must provide policies and procedures to facilitate public participation in those programs, consistent with subsection (1). These guidelines must be adopted as rules and published in a manner so that the rules may be provided to a member of the public upon request.

History: En. 82-4228 by Sec. 3, Ch. 491, L. 1975; amd. Sec. 24, Ch. 285, L. 1977; amd. Sec. 2, Ch. 452, L. 1977; R.C.M. 1947, 82-4228(1), (5); amd. Sec. 1, Ch. 425, L. 2003.

DEPARTMENT OF
PUBLIC HEALTH AND HUMAN SERVICES



Brian Schweitzer
GOVERNOR

Anna Whiting Sorrell
DIRECTOR

STATE OF MONTANA

www.dphhs.mt.gov

PO BOX 4210
HELENA, MT 59604-4210
(406) 444-5622
FAX (406) 444-1970

Memorandum

To: Members of DPHHS Advisory Councils / Task Forces / Steering Committees
CC: DPHHS Staff
From: Anna Whiting Sorrell, Director, DPHHS
Date: January 12, 2011
Re: Guidance on Legislative Activities for Members Appointed to Advisory Councils

Please review the attached document distributed by the Governor's office entitled "Guidance for Members Appointed to Advisory Councils within the Executive Branch of Montana State Government." This document is intended to help explain the role of council members in the legislative process and to streamline communication. The term "council member" is used throughout this memo, but please recognize that this guidance applies to any of the official councils, steering committees or task forces, etc. under the supervision of the Governor and/or Department. I encourage all members to read this very carefully, particularly the information on the second page that describes testifying on bills or budget proposals.

In the attached memo, the administration has laid out a process to be used when an advisory council wants to take an official position on a legislative issue. This process provides for an approval process to have a single individual speak on behalf of the council and state a particular position that has been adopted after giving proper public notice and providing for public participation. To the extent that any council wishes to present an official position to the Legislature, the Department will be happy to assist them through this process.

However, for the most part, council members are encouraged to consider testifying as a private citizen on the member's own time, on his or her own behalf. Council members are certainly entitled to state that they are a member of a particular council, but should clarify that they are representing only themselves and are presenting their own views. This general approach to legislative activities is recommended because members do not have to go through a formal process and their comments do not have to be limited to the very specific motion passed by the council.

I hope this information is helpful. Please contact your DPHHS staff liaison if you have any questions, and we look forward to continuing to work with you. Your input is very important to us as we work to address the important issues facing Montanans.

An Equal Opportunity Employer



*Guidance for Members Appointed to Advisory Councils
within the Executive Branch of Montana State Government*

Each legislative session, advisory council members raise questions about the roles they may play, either as council members or as private citizens, in impacting legislative policy and specific legislation that is germane to the legitimate purposes of their council. The following guidance is being provided to help streamline communication, coordinate legislative issues, and assist executive branch advisory council members about their role in the legislative process.

The Governor is the Chief Executive Officer of the executive branch of state government and is charged with formulating and administering the policies of the Executive Branch, including budget policies and priorities. Whether your advisory council is established by statute or by executive order, advisory councils that are attached to departments are part of the executive branch. This guidance applies to members of advisory councils under the supervision of the Governor.

In general, advisory councils are established for the purpose of providing advice, gathering information, and making recommendations to the Governor or the executive branch agency to which they are attached and not for the purpose of legislative advocacy. A limited number of advisory councils, by statute or executive order, have the additional duty of reporting and conveying recommendations to the legislature relating to their council's subject area.

Before an advisory council can develop and approve reports and recommendations – whether to the Governor, to the agency to which the council is attached, or to the legislature – the council must give proper public notice of its meetings and agendas and allow opportunity for public participation. See *generally*, Title 2, chapter 3, parts 1 and 2, MCA. An advisory council acts (e.g., approves a report or recommendation) by passing a motion made by one of its members.

If an advisory council is charged with presenting a report and recommendations to the legislature, the advisory council is requested to coordinate its work within the executive branch. Advisory councils are requested to provide the head of the agency to which the council is attached (usually the department director) with the council's report and recommendations to the legislature. The agency head is responsible for informing the Governor's Office of the council's report and recommendations and for assisting the council in conveying the information to the legislature. Because advisory councils generally have limited budgets, the agency to which the council is attached will assist the council in preparing the report and recommendations in a cost-effective manner.

As stated above, advisory councils generally are not charged with advocating for or against legislation. Rather, generally, an advisory council member desiring to

advocate for or against legislation must do so as a private citizen on the member's own time on his or her own behalf. When advocating (testifying or lobbying) as a private citizen, the council member is not entitled to compensation or travel reimbursement from the state.

However, with approval of the Governor's Office, advisory council members may be authorized to testify for or against legislation that is within the advisory council's subject area. A request to the Governor's Office for approval of an advisory council member to testify in support of or against legislation on behalf of the council requires a motion passed by the council. The request should be made through the head of the agency to which the council is attached. The request for approval to testify can be made informally (e.g., agency staff can convey request by telephone or e-mail to the department head, who in turn will communicate with the Governor's Office) and should explain why the legislation is important to the council, the substance of the testimony, and how it impacts the advisory council's subject area.

When authorized to testify on behalf of the advisory council, the member is acting in the performance of advisory council duties and is entitled to compensation and reimbursement for travel. Please refer any questions in this area to the agency head or agency legal counsel.

Always remember that when an advisory council member testifies before a legislative committee, the member should expressly state whether he or she is appearing as a private citizen or on behalf of the advisory council.

Also please remember that the time spent in lobbying at the legislature, including providing testimony on bills, must comply with Montana's lobbying laws and rules. See, the Commission on Political Practices website and Title 5, chapter 7, MCA.

Finally, the Administration recognizes that the volunteer service given by each advisory council member is invaluable in making critical decisions on important issues affecting Montanans. The hard work and dedication of all advisory council members is valued and greatly appreciated.

U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, D.C. 20202

TECHNICAL ASSISTANCE CIRCULAR
RSA-TAC-12-01

DATE: October 21, 2011

ADDRESSEES: STATE VOCATIONAL REHABILITATION AGENCIES
STATE REHABILITATION COUNCILS
CLIENT ASSISTANCE PROGRAMS
TECHNICAL ASSISTANCE & CONTINUING EDUCATION
CENTERS
AMERICAN INDIAN VOCATIONAL REHABILITATION
SERVICES PROJECTS
CONSUMER ADVOCACY ORGANIZATIONS

SUBJECT: Federal Requirements Governing the Composition and
Membership of, and Appointments to, the State Rehabilitation
Councils

PURPOSE: *The Rehabilitation Act of 1973, as amended (Rehabilitation Act)*
requires the State Plan for the vocational rehabilitation (VR)
program to assure that either the designated state agency is an
independent commission that is consumer-controlled or that the
state has established a State Rehabilitation Council (SRC) that
meets the requirements set forth in Section 105 of the
Rehabilitation Act (Section 101(a)(21)).

Except for those states in which the designated state agency is an
independent commission established pursuant to Section
101(a)(21)(A)(i) of the *Rehabilitation Act*, a state must establish an
SRC so that it can receive funding for the administration and
operation of the VR program (Section 105(a)(1)). Among its
several responsibilities, the SRC reviews, evaluates and advises the
agency regarding its performance and effectiveness in the delivery
of services and the affect of service provision on the achievement
of employment outcomes by individuals with disabilities (Section
105(c)(1) of the *Rehabilitation Act*). Additionally, the SRC
ensures that the voice of the community of stakeholders is heard as
agencies develop and implement policies and procedures that

directly impact the individuals served by the VR agency (Sections 101(a)(16) and 105(c)(2) and (6) of the *Rehabilitation Act*).¹

When constituted in accordance with federal requirements, the SRC brings together a variety of individuals with disabilities, disability groups, VR professionals, service providers and leaders in the community, including those representing business, industry and labor. To ensure that each SRC is properly constituted so that it is able to carry out its mandated functions, the Rehabilitation Services Administration (RSA) provides, through this technical assistance circular (TAC), guidance to VR agencies and SRCs regarding the federal requirements concerning the composition and membership of, and appointments to, the SRC.²

TECHNICAL
ASSISTANCE:

The information contained in this TAC is presented below in answer to a series of questions frequently asked by VR agencies and SRCs. Except where otherwise noted, all requirements discussed herein also apply to SRCs established in states with a separate VR agency serving individuals who are blind and visually impaired.

1. Who has the authority to appoint members to the SRC?

Except in a very limited number of states, the governor must select and appoint the members of the SRC (Section 105(b)(3) of the *Rehabilitation Act*; 34 CFR 361.17(a)). However, in those few states where the state's constitution or statutes vest authority to carry out activities under the *Rehabilitation Act* in another entity, including one or more houses of the legislature or an independent board, the chief officer of that entity has the authority to make the appointments to the SRC (*Id.*). For example, a state's constitution may establish an elected board of education that is structurally independent from the state's executive branch and from the control of the governor. In such circumstances, state statute may identify the elected board as the entity charged with the responsibility to carry out the activities under the *Rehabilitation Act*. In that case, the board's president, as its chief officer, has the authority to select and appoint the members of the SRC.

¹ A complete list of an SRC's mandated functions and responsibilities can be found at Section 105(c) of the *Rehabilitation Act* and its implementing regulations at 34 CFR 361.17(h).

² This TAC does not address federal requirements, found at Section 101(a)(21)(A)(i) of the *Rehabilitation Act* and 34 CFR 361.16(a)(1), pertaining to the composition and functions of an independent commission established for the purpose of overseeing and administering a state's VR program.

When making the appointments, the appointing authority must do so only after receiving recommendations from representatives of organizations representing a broad range of individuals with disabilities. To the greatest extent practicable, the appointing authority must take into account the extent to which minority populations are represented on the SRC (*Id.*). This requirement is consistent with changes to the *Rehabilitation Act* that emphasize outreach to individuals from minority backgrounds and the need for the VR program to better reflect the culturally diverse population of the United States (preamble to the Notice of Proposed Rulemaking (NPRM) 60 Fed. Reg. 64475, 64482-64483 (Dec. 15, 1995)).

2. Must the director of the designated state unit be a member of the SRC?

Regardless of whether the SRC is established pursuant to Section 105(b)(1)(A) or (B) of the *Rehabilitation Act*, the director of the designated state unit must be appointed to the SRC as an ex-officio, nonvoting member (Section 105(b)(2) of the *Rehabilitation Act* and 34 CFR 361.17(b)(i)(xii)). In those states where one SRC represents two designated state units – one for individuals who are blind and one for all other individuals with disabilities – both directors must be appointed to the SRC and serve in a nonvoting, ex-officio capacity.

3. What are the other composition and membership requirements for the SRC?

The membership requirements, set forth at Section 105(b) of the *Rehabilitation Act* and 34 CFR 361.17(b) ensure that various constituencies of the VR program have a voice in the conduct of the VR program in the state (Final Regulations, 66 Fed. Reg. 4379, 4422 (Jan. 17, 2001)). An SRC must be comprised of a minimum of 15 members (Section 105(b)(1)(A) and (B) of the *Rehabilitation Act* and 34 CFR 361.17(b)(1) and (3)). However, a separate SRC for agencies serving individuals who are blind and visually impaired may consist of fewer than 15 members, if state law establishing this lower minimum number of members was in effect on the day of enactment of the *Rehabilitation Act Amendments of 1992* (Section 105(b)(1)(C); 34 CFR 361.17(b)(4)).

A majority of SRC members must be individuals with disabilities who do not work for the VR agency (Section 105(b)(4)(A) of the *Rehabilitation Act*; 34 CFR 361.17(c)(1)). In those states that establish a separate SRC for the agency serving the blind, the

majority of that SRC must be comprised of individuals who are blind and do not work for either VR agency in the state (Section 105(b)(4)(B); 34 CFR 361.17(c)(2)).

In accordance with Section 105(b)(1)(A) of the *Rehabilitation Act* and regulations at 34 CFR 361.17(b)(1), states may appoint more than the minimum 15 members to the SRC, so long as the membership includes all of the representatives described below:

- at least one representative of the Statewide Independent Living Council (SILC) – who must be either the chairperson or another designee of the SILC;
- at least one representative of a parent training and information center established pursuant to Section 682(a) of the *Individuals with Disabilities Education Act (IDEA)*;
- at least one representative of the Client Assistance Program (CAP) who must be either the CAP director or another individual recommended by the CAP;
- at least one qualified VR counselor with knowledge of and experience with the VR programs. This individual serves as an ex-officio, nonvoting member if he or she is employed by the designated state agency;
- at least one representative of a community rehabilitation program;
- four representatives of business, industry and labor;
- representatives of disability advocacy groups: (a) representing a cross section of individuals with physical, cognitive, sensory and mental disabilities; and, (b) representing individuals with disabilities who have difficulty representing themselves or are unable due to their disabilities to represent themselves.
- at least one former or current applicant for, or recipient of, VR services;
- at least one representative of the directors of the American Indian Vocational Rehabilitation grant program, if the state has such a project(s) carried out in the state;
- at least one representative of the state educational agency (SEA) responsible for the public education of students with disabilities; and
- at least one representative from the state workforce investment board.

Pursuant to Section 105(b)(1)(B) of the *Rehabilitation Act* and 34 CFR 361.17(b)(3)(i), states that have established a separate SRC for a VR agency serving individuals who are blind and visually impaired must satisfy all of the above membership requirements, with only a few exceptions permitted. In particular, instead of including representatives of a cross section of disability groups, the

SRC for a separate agency serving the blind and visually impaired, must include at least one individual who represents an advocacy group for the blind (34 CFR 361.17(b)(3)(ii)(A)). In addition, this SRC must include at least one representative of an individual who is blind, has multiple disabilities, and has difficulty representing him or herself due to his or her disabilities (34 CFR 361.17(c)(3)(ii)(B)).

RSA recommends that appointing officials, and those that advise them, make every effort to ensure, whenever practicable, that the SRC includes representation from more than one advocacy group in those states where there are more than one advocacy group representing individuals with disabilities, including more than one advocacy group representing individuals who are blind. In those states where there is one SRC representing both designated state units for the VR program, RSA encourages the appointing authority to appoint representatives from a cross section of disability groups that include those advocacy groups of the blind.

4. Can an entity be represented on the SRC by an individual who is not a member or employee of that entity?

With few exceptions, Section 105(b) of the *Rehabilitation Act* and 34 CFR 361.17(b)(1) require that “representatives” of specified organizations must be appointed to sit on the SRC. Neither the *Rehabilitation Act* nor its implementing regulations require that the representatives be employees or members of those organizations. Therefore, RSA has interpreted this to mean that those organizations may be represented by individuals who are not members or employees of those organizations (Final Regulations, 66 Fed. Reg. 4379, 4422 (Jan. 17, 2001)).

As noted elsewhere in this TAC, while the organizations and entities represented on the SRC must provide their recommendations of representatives, the final appointment decision vests in the governor or other appointing authority. Although RSA strongly encourages that the representatives be active members or employees of those organizations, RSA also recognizes that the appointing authority may appoint a nonmember or someone who is not employed by that organization. RSA recommends that careful consideration be given, prior to such a decision, to whether such an individual can truly represent the organization for which he or she is being appointed. If a nonmember or someone who is not employed by the organization is to be appointed, RSA expects that such a council member would be closely affiliated with and knowledgeable about the

organization or entity whose interests the individual is charged with representing (*Id.* At 4422-4423) so that the member can best carry out his or her responsibilities on the SRC.

5. Which SRC members may vote?

With limited exceptions, all members of the SRC have the right to vote on matters before the council. The first of the exceptions prohibits representatives who are employed by the VR agency or its designated state agency from voting on SRC matters (34 CFR 361.17(b)(2)). For example, the director of the designated state unit serves as an ex officio member and is not allowed to vote (Section 105(b)(2) of the *Rehabilitation Act*; 34 CFR 361.17(b)(1)(xii)). Similarly, the member who serves as a qualified VR counselor, if that individual works for the VR agency at the time he or she is appointed to the council, also serves as an ex-officio member and is not permitted to vote (Section 105(b)(1)(A)(iv); 34 CFR 361.17(b)(1)(iv)). However, if the CAP representative is from a CAP that is housed within the VR agency, that individual representative is not so restricted and, therefore, has the right to vote on matters before the SRC (34 CFR 361.17(b)(2)).

The second of the exceptions pertains to those matters before the council when a conflict of interest – or the appearance of a conflict of interest – exists, e.g., when the vote would result in a direct financial gain for that individual or the organization he or she represents. In such circumstances, individuals must not vote on such matters. Members also must not vote when there is an appearance of a conflict of interest under state law (Section 105(e) of the *Rehabilitation Act*; 34 CFR 361.17(g)). If there is a conflict of interest, or the appearance of a conflict of interest, the member must recuse him or herself from that particular vote, explaining to the council as necessary the reason for the recusal.

6. When an individual with a disability is appointed to represent an agency or entity on the SRC, does this count toward the majority representation of individuals with disabilities?

Yes, so long as the individual is not an employee of a state VR agency. As noted above, the SRC must be comprised of a majority of individuals with disabilities who are voting members (Section 105(b)(4); 34 CFR 361.17(c)). This requirement applies even if more than the minimum of 15 individuals are appointed to serve on the council.

7. Can one person represent more than one agency or stakeholder group on the SRC?

RSA has consistently stated that a member of the SRC can represent only one agency or organization on the council at a time (Final Regulations 66 Fed. Reg. 4379, 4423 (Jan. 17, 2001)). For example, an individual, who is a former or current applicant or client of VR services, may not also serve as a representative of a disability group, even though that individual may be affiliated with such a group. RSA recognizes that some states have difficulty maintaining a sufficient pool of qualified individuals to serve on statewide councils. Nevertheless, Section 105(b) of the *Rehabilitation Act* and 34 CFR 361.17(b) establish a minimum number of members for the council, each of whom represents a specific component of the disability community. Because each member represents a different interest, sometimes one that is divergent from that of other members, we maintain that each organizational requirement must be met separately (Final Regulations, 66 Fed. Reg. 4379, 4423 (Jan. 17, 2001)).

8. How is the chairperson of the SRC selected?

Every SRC must have a chairperson. The members of the SRC must select the chairperson from among the voting members of the SRC (Section 105(b)(5)(A) of the *Rehabilitation Act* and 34 CFR 361.17(d)(1)). This means that ex-officio members of the Council, such as the director of the designated state unit or qualified VR counselor employed by the designated state unit, cannot be selected to serve as the chairperson. The governor may veto the council's choice of chairperson if state law grants this authority to the governor (*Id.*). In states where the governor does not have a veto power, or in which another entity is granted the authority to make appointments to the SRC, that entity may select a chairperson, or require the SRC to select a chairperson (Section 105(b)(5)(B) of the *Rehabilitation Act*; 34 CFR 361.17(d)(2)). There is nothing in federal law to prohibit an SRC from selecting co-chairs.

Although not required, RSA strongly recommends that a chairperson of the SRC be an individual with a disability or, in the case of a SRC for agencies serving the blind, that the chairperson be blind. RSA also encourages SRC members to select a chairperson in accordance with the council's bylaws, and with attention to a number of factors, including availability of the individual to take on the responsibility of serving as chairperson, demonstrated leadership skills, and a minimum potential for

conflicts of interest that might result in frequent recusals from voting or actively participating in the work of the council.

9. How long can a member serve on the SRC?

Each SRC member shall be appointed to serve no more than two consecutive full three-year terms (Section 105(b)(6)(A) and (B); 34 CFR 361.17(e)(1)). This rule does not apply to the individuals representing the CAP or the AIVRS project (*Id.*). If a council member is appointed to replace a former member who did not complete his or her term, the new council member must be appointed for the remainder of the vacated term for which he or she is being appointed – not a full three-year term (Section 105(b)(6)(A)(i); 34 CFR 361.17(e)(2)). Once that initial term is completed, the individual may be appointed to fill a second term of three years (Section 105(b)(6)(A)(i) and (B); 34 CFR 361.17(e)(2)).

When an SRC was originally established, the length of the member's terms were to be staggered, so that the SRC remained fully constituted as the initial terms expired; however, no single term was to be longer than three years (Section 105(b)(6)(A)(ii); 34 CFR 361.17(e)(3)). This staggered approach to the setting of the length of a member's term also can be used in the rare instance when the SRC must be re-established after the terms of all members have lapsed.

10. Can a member of the SRC continue to serve on the council once his or her term has expired?

It has come to RSA's attention that some states have enacted statutes or regulations, or have adopted policies, permitting a member of an advisory council in general, or the SRC specifically, to continue in his or her role on the council after the term of membership, set by federal law, has expired, until the governor reappoints the individual or appoints another person to replace that member. Whether these statutes, regulations or policies are consistent with the provisions of the *Rehabilitation Act* and its implementing regulations is a matter of federal constitutional principle.

The *Rehabilitation Act* typically grants wide flexibility to states in the implementation of federal requirements governing the administration and operation of the VR program. Nonetheless, Section 105 of the *Rehabilitation Act* is prescriptive with respect to SRC membership criteria, as well as the length and number of

terms a member is permitted to serve. Although the *Rehabilitation Act* provides for a few exceptions to each of these requirements (e.g., the CAP representative is not limited in the number of terms he or she can serve), even the exceptions are very specifically detailed. The specificity of these particular requirements is intended to ensure that the SRC is well qualified to carry out its responsibilities and functions in a meaningful manner.

Consequently, the Supremacy Clause of the U.S. Constitution dictates that the very clear and specific language contained in the provisions of the *Rehabilitation Act* and implementing regulations pertaining to the terms of service for SRC members supersede such state statutes and regulations. If permitted, the implementation of the state's statutes or regulations would both interfere with and undermine the proper implementation of the *Rehabilitation Act*. The implementation of a state's policy allowing a member to sit beyond his or her term would have the direct effect of undermining the provisions of Section 105 specifying the time limit for SRC membership. Therefore, no member of the SRC to whom term limits apply can continue to serve on the council once his or her term has expired, unless he or she is reappointed if eligible.

In an effort to minimize the effect SRC vacancies may have on the council's ability to continue its work, the *Rehabilitation Act* created two safeguards. First, Section 105(b)(7)(A) of the *Rehabilitation Act* makes it clear that a vacancy shall not affect the ability of the remaining SRC members to perform their duties. Second, Section 105(b)(7)(B) permits the appointing authority to delegate the authority to the remaining SRC members to fill a vacancy once the appointing authority has made the original appointment.

11. Can the same individual serve two terms representing one agency or entity and then serve additional terms representing a different agency or entity?

There is nothing in federal law to prohibit an individual, whose term of membership has expired or who has left the SRC, from being appointed to a new term. However, this appointment must be done consistent with the term-limit requirements already discussed. In other words, if an individual has served the maximum number of terms as a representative of a particular organization, he or she may not be re-appointed to that same membership slot – or any other membership slot – immediately. A meaningful break in service must occur before that individual

could sit as a member of the SRC again. Both the *Rehabilitation Act* and its implementing regulations are very clear that “members” are appointed and that “members” have specific term limits. In other words, both the *Rehabilitation Act* and its implementing regulations speak in terms of the individuals serving on the council, not the seats they represent. Therefore, in order to give meaning to the specificity of the term limits imposed by federal law, no member should be appointed – after having already served the maximum time allowed – to a new membership seat until a meaningful break in service to the council has passed. Because neither the *Rehabilitation Act* nor its implementing regulations define this break in service, RSA encourages SRCs to consider addressing this issue through its bylaws so that criteria may be established to govern when an individual may be appointed to the council again.

12. How is a SRC member replaced if he or she cannot complete his or her term?

The governor or other appointing authority in the state must select a member to fill a vacant position in the middle of a term in the same manner as members appointed to a full term (Section 105(b)(7)(A) of the *Rehabilitation Act*; 34 CFR 361.17(f)(1)). However, the appointing authority can delegate this responsibility to the remaining members of the SRC after making the initial appointment (*Id.*). The substituting member must be appointed for the entire remainder of the departing member’s term (Section 105(b)(6)(A)(i); 34 CFR 361.17(e)(2)). RSA interprets these statutory and regulatory provisions to permit a member, who completed the term of a vacating member, to be appointed for a consecutive full three-year term.

13. Can members be removed from the SRC, by whom and under what circumstances?

Neither the *Rehabilitation Act* nor its implementing regulations specify requirements governing the removal of an SRC member whose term has not expired. Each SRC has adopted bylaws that provide guidelines on how all aspects of the SRC are to be managed, which could include the varying circumstances that could cause the possible removal of an active member of the council. The council should then make a recommendation for removal to the governor or other appointing authority, who ultimately would make the decision since he or she made the original appointment.

14. Can SRC members receive compensation for their service on the council?

Members are not compensated for their service, which is voluntary, but may be compensated for expenses incurred in the course of their service, or be compensated for lost income as a result of attending to council business. This may include attending council meetings, hearings and forums sponsored by the council, or for receiving training which is deemed necessary by the council for the purpose of facilitating the members' ability to carry out their assigned duties as council members (Section 105(g) of the *Rehabilitation Act*; 34 CFR 361.17(k)).

Examples of expenses that may be reimbursed include child care expenses, costs associated with personal assistance services, reasonable accommodations for individuals with disabilities and other necessary expenses for individual members to participate in the work of the council. Compensation may be made for lost wages that occur as a direct result of participating in council activities.

RSA encourages SRCs to plan meetings and other activities of the council and its established committees to minimize the need for individuals to take time from work, and thus reduce the need for compensation for lost wages in order to maximize the resources of the council for other council activities. There is no federal requirement that compensation be equivalent to the wages earned by the individual, and, therefore, the level may be set by the council in accordance with its bylaws. RSA encourages SRCs to consider carefully the balance between maximizing the council's resources, and minimizing the inconvenience and expenses incurred by members in the course of participating on the council so that individuals are not unduly deterred from serving.

SUMMARY:

The SRC plays an important role in advising, and guiding state VR agencies to ensure the effective delivery of VR services to eligible individuals with disabilities in the community. RSA believes that the SRC should represent as great a diversity of voices from the disability community as possible, including ethnic, cultural, linguistic, gender diversity, as well as a wide range of physical, intellectual and mental health disabilities. All of the requirements discussed above are intended to support these goals of ensuring that the voice of individuals with disabilities served by state VR agencies are heard, along with the voices of the community of stakeholders, business and labor leaders, and VR service providers

who work together to assist individuals with disabilities to achieve their vocational goals.

CITATIONS: Section 105 of the *Rehabilitation Act of 1973*, as amended

VR program regulations found at 34 CFR 361.16 and 34 CFR 361.17

INQUIRIES: Carol Dobak
Chief, Vocational Rehabilitation Program Unit
(202) 245-7325
Carol.Dobak@ed.gov

Lynnae M. Rutledge
Commissioner

cc: Council of State Administrators of Vocational Rehabilitation
National Council of State Agencies for the Blind
Consortia of Administrators of Native American Rehabilitation
National Disability Rights Network

Vocational Rehabilitation and Blind Services:

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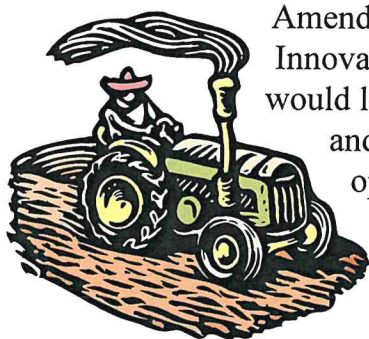
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Vocational Rehabilitation and Blind Services (VRBS)

General Information

VRBS helps people with disabilities get jobs and live independently in the community. Rehabilitation counselors and blind/low vision specialists in eleven field offices across the state work directly with consumers to provide individual services. Vocational Rehabilitation and Blind Services operates under the federal Rehabilitation Act of 1973, as amended.

Under the Rehabilitation Act, federal grants are awarded to assist states in operating a comprehensive vocational rehabilitation program. This program provides VR services to eligible people with disabilities, consistent with their strengths, resources, priorities, and abilities, so that each person may prepare for and engage in gainful employment.



Amended in 2014, the Rehabilitation Act is part of the Workforce Innovation and Opportunity Act. Congress hoped this linkage would lead to close cooperation and coordination between the VR and workforce systems which in turn would lead to increased opportunities for training and higher quality employment outcomes for people with disabilities.

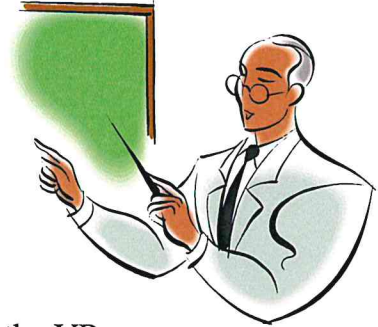
General Highlights

- Typically Vocational Rehabilitation serves over 7,500 Montanans with disabilities. About 800-900 of these consumers find jobs.
- The total annual earnings of Montanans who are rehabilitated each year are about \$15 million.
- The average wage of a consumer who is employed is over \$11 per hour.
- The average successfully employed consumer receives VR services for about 2 years.

FY 2014 Highlights

In FY 2014, Montana VR served 7,755 eligible Montanans with disabilities.

- 5,376 of these Montanans received services under an Individualized Plan for Employment (IPE).
 - 860 went to work (Note: VR counts a person as “working” only after they have been employed for at least 90 days)
 - 1,177 dropped out after they started on their employment plan for a variety of reasons—moved out of the area, disability became more significant, death, no longer interested in VR services, etc.
 - 3,339 continued with Vocational Rehabilitation in FY 2015.
- The total annual earnings of Montanans who were successfully employed last year were \$14.7 million.
- The average hourly wage was \$11.94.



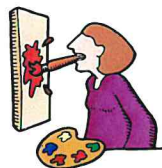
Cost effectiveness

- National statistics show that for every dollar invested in the VR program, about ten dollars are returned to the economy in the form of higher wages.
- Montana statistics indicate that for every dollar spent, \$3.31 is returned to the economy within three years. One reason for the difference in these numbers is the lower pay scales in Montana.

Eligibility criteria

You are eligible for VR services if:

1. you have a physical or mental disability, and
2. the disability prevents you from getting or keeping a job, and
3. you want to work and you need VR services to help you obtain or keep a job.

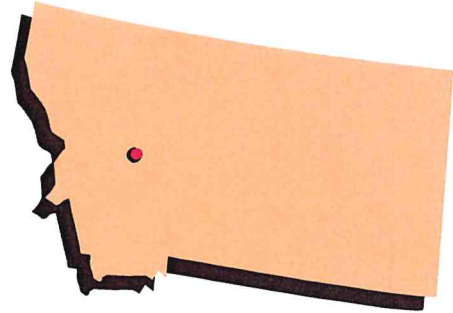


Primary Disability

VR serves people with any disability. About 32% of the VR consumers have some type of physical disability such as paraplegia, quadriplegia, multiple sclerosis etc. About 57% of VR consumers have some type of mental disability such as a mental illness or a developmental disability. The other 11% of our consumers have a sensory disability---visual or hearing.

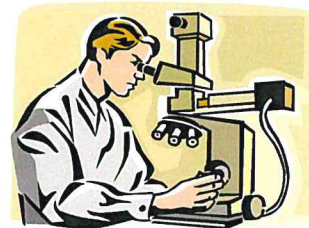
Where are we located?

- We have 98 employees (bodies, not FTE) who are located in offices across the state.
- Most of our staff provide direct services to consumers in field offices. These staff include counselors, visual specialists, and support staff.
- Our 11 field offices are located in Missoula, Kalispell, Hamilton, Polson, Butte, Bozeman, Helena, Great Falls, Havre, Billings, and Miles City.
- Our four Blind/Low Vision locations in Missoula, Butte, Great Falls, and Billings each house a team composed of a counselor, rehabilitation teacher, and an orientation and mobility specialist. This staff works directly with blind and visually impaired consumers, helping them to learn to work and live independently in their communities.



What services are provided?

- Guidance and counseling in the selection of a vocational goal
- Assessment of needs to overcome disability impediments in achieving work and independence
- Physical and mental restoration services
- Adaptive equipment (adapted computer; hand driving controls; etc.)
- Training and training materials (university, vo-tech, adult education, on-the-job training)
- Transportation related to other VR services
- Interpreter services for persons who are deaf
- Reader services for persons who are blind
- Orientation and mobility instruction (visually impaired)
- Services to assist students with disabilities transition from school to work
- Job placement services
- Any service necessary to get someone to work
- Technical assistance for employers



The Rehabilitation Process

- A VR counselor is assigned to each eligible individual
- The counselor gathers as much information as possible about the individual's work history, education and training, abilities and interests, rehabilitation needs, and possible career goals.
- Together the counselor and the individual develop an Individualized Plan for Employment (IPE) which identifies the individual's long-term vocational goals.

- The IPE also lists the steps necessary to achieve the individual's goals, the services required to help the individual reach those goals, and evaluation criteria used to determine whether goals have been achieved.
- The IPE also contains a description of how the individual was involved in choosing among alternative goals, objectives, services, and service providers.
- The VR counselor provides some services directly to the eligible individual and arranges for and/or purchases other services from providers in the community.

Does the individual ever have to pay for VR services?

Montana state law requires that consumers must help pay for their VR services if they are able to. Since most VR consumers are not employed, they generally do not have resources to pay for all of their services. Federal law requires that VR provide certain services regardless of the individual's ability to pay. These services include:

- assessments to determine eligibility and VR needs
- vocational counseling, guidance, and referral services
- job placement services
- rehabilitation technology

Additional information

1. In addition to the “work” program described above, Vocational Rehabilitation serves Montanans with disabilities in the Independent Living Program (1,108 consumers), Montana Telecommunications Access Program (838 consumers), Older Blind Program (620 consumers), Extended Employment Program (309 consumers), Visual Medical Program (82 consumers), Montana Youth Leadership Forum (20 consumers) and Business Enterprise Program (3 vending routes).
2. Each counselor works with over 100 active cases at a time.
3. The average consumer who becomes successfully employed receives VR services for about two years. The purpose of Vocational Rehabilitation is to assist people in obtaining employment so that they can work and live independently without VR services.
4. The major funding source is Section 110 with a matching rate of 78.7% federal and 21.3% state. In addition, VR has some areas which are 100% federal funds (Supported Employment) and some which are 100% general fund (Extended Employment, Visual Medical).
5. VR purchases goods and services from about 2,000 vendors. These vendors

include universities, vo-techs, schools, community rehabilitation programs such as Helena Industries, private businesses and stores, adaptive equipment suppliers, bus companies, and medical providers.

6. VR Counselors have masters degrees in rehabilitation counseling as well as other specialized training in disability issues.

CONSUMER SUCCESS STORIES

Success Story 1

When Paul* first applied for services, he was 48 years old and had just moved to Montana from California. He had contacted the Mental Health Center, was receiving services, and now wanted to go to work. He had not worked in four years. He applied for VR services based on a long history of mental illness.

Paul had worked most of his adult life until 1996. He was very good at getting jobs but simply could not keep them. After years of struggling and being frustrated, he realized his employment problems had a lot to do with his mental illness, so eventually he went on Social Security disability.

When Paul came to VR, he was frustrated, tired of not having enough income, and he had a strong desire to return to work. After some counseling and guidance, career exploration, and a community assessment, Paul decided that he wanted to build on his interest in computers. He and his counselor agreed that a career in this field would give him the best chance of maintaining employment. It was an area in which he had a strong interest, some experience, limited skills, and it appeared to be the most compatible with his disability and the limitations imposed by his symptoms. He developed a vocational plan with computer technician as his goal.

VR was able to fund Paul in training that would give him the certifications he needed to work as a computer technician. VR also gave him the services of a placement specialist who helped him with his job search and eventually assisted him in securing a position as a computer technician. The job he accepted allowed him to work independently, provided him enough income to get off of Social Security benefits, and allowed him the flexibility to maintain his mental health program.

Success Story 2

Chris* applied for services from Montana Vocational Rehabilitation in November 2002. He had been diagnosed with anxiety and depression significant enough that it had resulted in hospitalizations.

Chris expressed the desire to reach several goals, both vocational and personal. Vocationally he wanted to become a counselor, working with children. His personal goals were to set a good example for his own children; specifically, he wanted his children see him successfully employed by Christmas.

While his initial goal was to work with children, later in the process we agreed to change his long-term vocational goal to Chemical Dependency Counselor. Chris made this change because he felt he had valued skills and insights to bring to that

occupation. He was also aware that the length of that curriculum is shorter and this change would enable him to work sooner.

Chris worked diligently to complete his training and graduated in May; he was hired as a Chemical Dependency Counselor in June.

Success Story 3

Darla* is a 35 year-old married woman and mother of four. She came to Vocational Rehabilitation (Blind and Low Vision Services) inquiring about the newly formed Montana Business Enterprise Program for vendors, and she expressed a genuine interest to become involved. At the time of her application, Darla owned and operated a registered daycare business from her home. She was told by State of Montana authorities that they could no longer license her as a daycare provider should her vision get worse. Additionally, her ophthalmologist told her that she had to stop driving due to advancing Retinitis



Pigmentosa. Darla and her VR counselor wrote an employment plan to include services such as evaluation and assessment, low vision adaptation and assistive technology, Business Enterprise vendor training, and on-the-job training. Darla is maintaining her position as a licensed Business Enterprise Program vendor in her community and has successfully expanded her route.

Success Story 4

Bill* was a man who initially said, “No one will hire me”. He had the look of a man that really believed that. Bill had residuals of cancer, which was not yet in remission. He admitted that his grooming and cleanliness were an issue because “Being out in the sticks so much I got out of the habit of taking a bath”. When VR tried to take a shared approach to Bill’s rehabilitation with another agency they were told “We don’t want to pick him up. He is never going to work.” When Bill reached the point of vocational planning, he had two ideas for employment. The first was to play a guitar in a band. “Do you play a guitar”, asked the counselor. “No”, said Bill, “but I always thought it would be fun, and I could put this sagebrush in my rearview mirror”. Bill’s



second idea was to build guns. He and his counselor talked about his hobbies of fishing, hunting, shooting and trapping. Bill, who had never used a computer, received a little training in web searching from the VR counselor and from Job Service, so he began diligently looking at gunsmith schools and gun related jobs; and gradually his thoughts moved away from his first musical goal. The rehabilitation of Bill was truly a team effort between Bill, Montana Vocational Rehabilitation and Montana Job Service. For example, Bill felt his mail was being taken from his box, so Job Service allowed him to receive his mail at their office, and they assisted him with his internet searches and computer skill development. Vocational Rehabilitation assisted him with enlarging photos of guns he had built and finished. VR also helped him create professional letters and provided postage to send his new portfolio to several gun makers in

Montana and nationwide. Bill cooperated fully, and worked hard to contact as many gun manufactures as he could afford. He kept careful records, including a job search notebook. Bill was hired at a Montana manufacturing plant and earns over eleven dollars an hour.

Success Story 5

Ross* is an individual with a severe hearing disability, and he communicates only with sign language. In order to move toward an appropriate work goal, Ross participated in a number of assessments, including a vocational evaluation and a functional capacity evaluation. Ross then worked with an employment specialist at a facility offering job finding activities. After a few months of job searching, Ross found a job at Lowe's Hardware. Lowe's had not officially opened yet, but after being interviewed, Ross was offered a job working in inventory. The employment specialist/interpreter worked with Lowe's employees and Ross during his training to establish ways for effective communication including a vibrating pager system, information to employees on common sign language such as the alphabet and emergency signs, and assisting with general interpretation of job duties and communication. Many of Ross' coworkers have now learned minimal signing in order to communicate with him, and one of his coworkers signs due to having a relative who is deaf, providing a form of natural support for Ross. Ross' case was closed as successfully employed after he reported that he is enjoying his job and planning to apply for full-time employment. He currently works about 20 hours a week at \$9.01/hour with part-time insurance benefits.



* Vocational Rehabilitation is always concerned about individual confidentiality and privacy. Names have been changed to protect the individuals with disabilities.

Central Office: Who does What

as of March 2020

Chanda Hermanson: Chanda is the Administrator heading the Disability, Employment, and Transitions Division which includes Vocational Rehabilitation and Blind Services, Disability Determination Services, Montana Telecommunications Access Program, and Transportation.

Anna Gibbs: Anna is the Bureau Chief of Program Support & Operations. She supervises Independent Living Program Manager, Business Analyst, Transportation Coordinator, Program Manager – Deaf Services, and Budget Analyst Supervisor. She works in the Billings VRBS office.

Brook Hodge: Brook is the Bureau Chief of Field Services. She supervises all the field staff in nine VRBS offices. She works in Missoula VRBS office.

Lacey Conzelman: Lacey is the program manager over several areas of VRBS: Social Security, Ticket to Work, Work Incentives, Community Rehabilitation Programs, and State Plan. She is also the liaison to the Section 121 Native American Projects. She works in Billings VRBS office.

Tanya Getz: Tanya is the administrative support supervisor in the Central Office.

Cindy Logan: Cindy is the administrative support in the Central Office. She works part-time.

Joe Weber: Joe is one of the two budget analysts for the Division. He monitors VRBS budget.

Shannon Little: Shannon is the second budget analyst for the Division. She monitors Disability Determination Services, Montana Telecommunication Access Program, and Independent Living.

Beverly Berg: Beverly is the regional manager for Blind and Low Vision Services. She works in Great Falls VRBS office.

Rachel Heaton: Rachel is the business analyst and the data expert on the VRBS data system. She works closely with the VR federal agency and the VRBS staff.

Bill Harant: Bill is the Independent Living program manager and the staff person for the Statewide Independent Living Council.

Tammy Hogan: Tammy is the Bureau Chief of Pre-Employment Transition Services. She works in Great Falls VRBS office.

Patrick Sanders: Pat is the transportation coordinator for the department. He is housed in Butte.

Barb Schiedermayer: Barb is the Quality Assurance Services specialist. She teleworks in Missoula.

Mark Mahnke: Mark is the Business Services specialist. He works in Billings VRBS office.

Paul Suptic: Paul works with adaptive computer equipment for people who are blind.

Shawn Tulloch: Shawn is the program manager for deaf services and teleworks in Bozeman.

Mary Taylor: Mary is the director of the Montana Telecommunications Access Program (MTAP). MTAP is responsible for Montana Relay program and assistive equipment distribution.

Lisa Gault: Lisa is the Administrative Support for Montana Telecommunications Access Program (MTAP).

*VRBS TEAMS

Assistive Technology Team

Beverly Berg bberg@mt.gov; **3rd Wednesday of the month at 8:30 a.m.**

The technology team's purpose is to develop a comprehensive process for assessing and providing assistive technology along with training to clients of VRBS throughout the vocational rehabilitation process and into employment. During the last couple years, the team has been identifying resources and producing a newsletter to inform counselors about assistive technology. Eventually the team's goal is to develop an assessment tool for counselors to use with clients to determine if assistive technology will benefit a client, where to go to identify what assistive technology the client needs, where training is available for the technology use and when to provide it to the client.

Business Services Team

Mark Mahnke mmahnke@mt.gov; **3rd Wednesday of the month at 1:30 p.m.**

The purpose of the Business Services Team is to develop a service delivery system for businesses throughout Montana. The Team meets monthly to report their experiences, business contacts and strategies to their colleagues. The team is working on incorporating Local Labor Market Information into their practice, developing relationships with businesses and presenting the Windmills curriculum to local groups of employers. In the past year the team has developed public relations materials, employer resource materials, updated the VRBS Business Services website, and has collaborated with the Department of Labor & Industry on a shared data management system.

Deaf Services Team

Shawn Tulloch stulloch@mt.gov; **4x/year at 8:30 a.m. (contact Shawn for dates)**

There is a small number of VR counselors carrying deaf cases. The quarterly meeting via Skype for Business allows the counselors to talk with each other and share their ideas and experiences working with deaf clients. Shawn shared with them on different topics such as secondary programs for the deaf, accessibility issues (in educational settings and work place), review of the communication needs, mini-Deaf Culture lessons, and hearing technology devices. Staffing A Case is beneficial for everyone: one counselor reads out a case (no name to maintain the confidentiality) and what has been done for the deaf client. Others would give feedbacks.

Quality Assurance Team (Team Q)

Barbara Schiedermayer bschiedermayer@mt.gov; **3rd Thursday of the month at 2:00 p.m.**

The purpose of Team Q is to ensure that VRBS is hitting its performance target: to help people with disabilities achieve quality employment outcomes. Toward that end, the team has reviewed and revised existing performance measurement tools, including the *Case Review Form* and the *Annual Performance Appraisal* to ensure they are: 1) capturing relevant information, including the new Common Performance Measures, 2) detecting performance errors, and 3) revealing areas for improvement. In turn, findings

*VRBS TEAMS

from the evaluations will inform future training designed to promote best practices, consistency in performance, and the avoidance of performance errors in the future.

Youth Services Team

Tammy Hogan thogan@mt.gov; **2nd Tuesday of the month at 8:30 a.m.**

The Youth Services Team is a statewide group of individuals who share a passion for working with youth. The team assists in the development of materials, forms and strategies. Each counselor who is on the Youth Services Team takes the lead on youth related issues and pre-employment transition services for students in their office. Team members work closely with schools, represent VRBS on regional transition groups, help with vendor tables, give presentations and share information in a variety of settings. The focus is on increasing the skills, knowledge, and informed choices of youth with disabilities.

* Meeting date/time subject to change; contact team leader for verification

VOCATIONAL REHABILITATION AND BLIND SERVICES

<http://dphhs.mt.gov/detd/vocrehab>

Field Offices – as of March 2020

BILLINGS

2121 Rosebud Dr, Ste C
Billings, MT 59102
406-248-4801 (voice/TTY)
888-279-7532 (toll-free)
406-652-1781 (fax)

BOZEMAN

220 W Lamme, Ste 1E
Bozeman, MT 59715
406-587-0601 (voice/TTY)
877-296-1759 (toll-free)
406-587-7863 (fax)

BUTTE

700 Casey St, Ste B
Butte, MT 59701
406-496-4925 (voice/TTY)
888-279-7531 (toll-free)
406-782-8728 (fax)

GREAT FALLS

201 1st St S, Ste 2
Great Falls, MT 59405-1884
406-454-6060 (voice/TTY)
888-279-7527 (toll-free)
406-454-6084 (fax)

HAVRE

48 2nd Ave, Ste 213
Havre, MT 59501
406-265-6933 (voice/TTY)
877-296-1294 (toll-free)
406-265-9271 (fax)

HELENA

111 N Last Chance Gulch, Ste 2B
PO Box 202957
Helena, MT 59620-2957
406-444-1710 (voice/TTY)
877-296-1757 (toll-free)
406-444-9659 (fax)

KALISPELL

121 Financial Dr, Ste B
Kalispell, MT 59901
406-751-5940 (voice/TTY)
877-296-1760 (toll-free)
406-751-5944 (fax)

MILES CITY

114 N 7th
Miles City, MT 59301
406-232-0583 (voice/TTY)
877-296-1198 (toll-free)
406-232-0885 (fax)

MISSOULA

2675 Palmer, Ste A
Missoula, MT 59808
406-329-5400 (voice/TTY)
888-279-7528 (toll-free)
406-329-5420 (fax)

CENTRAL OFFICE - Admin Office

PO Box 4210 (59604-4210)
111 N Last Chance Gulch, Ste 4C
Helena, MT 59601-4168
406-444-2590 (voice/TTY)
877-296-1197 (toll-free)
406-444-3632 (fax)

How to Navigate RSA's Website-- Highlights

www.rsa.ed.gov

On the left side of the home page, click on "[About Your State](#)" to get information on:

- Fiscal Snapshot—lists grant amounts for different programs over the past few years
- Data Snapshot—lists how cases were closed (successful, not successful) over the past few years
- Grantees—lists organizations that got grants from RSA in fiscal year 12 (Vocational Rehabilitation and Blind Services; 4 independent living centers; Disability Rights Montana (Client Assistance Program)
- Grant Award Calculator—details the complicated formula that determines how much money each state receives in their Section 110 grant.
- Reports—lists three important reports:
 - (1) Annual Review; (2) State Plan; (3) Other-2012 Monitoring
- More RSA Programs—provides copies of all the reports submitted to the feds.

For more information on the federal requirements, click on "[Orientation and Technical Assistance Guide for State Vocational Rehabilitation Directors](#)" on the left side of the home page. This information was compiled for newly-hired state Vocational Rehabilitation Directors, and it provides a good general overview of the federal requirements.

The right side of the home page contains more information. Click on "[Legislation and Policy](#)" for specifics on legislation, regulations, sub-regulatory guidance, Policy Directives, Technical Assistance Circulars, and Information Memoranda.

The "[Ad hoc Query](#)" link on the right side allows a user to search for specific data and to compare data among states using quick tables under "Reports".

Also, on the right side of the home page, "[Info for SRCs](#)" provides a wealth of information of interest to State Rehabilitation Council members.

VRBS Strategic Plan Update

(July 1, 2016 to June 30, 2017 updates)

Presented at SRC

Goal: Modernize the VRBS service delivery system to be consistent with WIOA requirements.

Priority 1:

VRBS will be a leader in services to youth with disabilities across the state of Montana, primarily through providing a strong base of pre-employment transition services (Pre-ETS) for Montana students with disabilities.

Strategies for achieving Priority 1:

1.A. Increase the number of school district Pre-ETS contracts completed annually for the next three years.

2017 Qtr. # 1: No new school district contracts were completed during this time frame. With the publication of the final regulations, our agency had more information about data elements and 511 subminimum wage requirements to include as we developed the new contract template for Federal Fiscal Year 2017.

2017 Qtr. #2: Eighty three school districts have completed contracts with Vocational Rehabilitation and Blind Services (VRBS) effective February 6, 2017.

2017 Qtr. #3: In March of 2017, VBS experienced significant budget constraints and were directed not to complete any more school contracts. At this time, we have completed contracts with 92 schools serving approximately 4000 students

1.B. Increase and expand specialized programs, such as Montana Youth leadership Forum and Movin' On Montana, that offer Pre-ETS services outside of the schools annually over the next three years.

2017 Qtr. #1: The new contract for Montana Youth Leadership Forum (MYLF) includes expanded programs such as MYLF Minis and MYLF Step II. The Minis are condensed versions of the traditional MYLF Program and are offered in rural locations. The Step II program is offered to students who completed MYLF or Minis and provides more in-depth follow-up along with Community Job Shadowing opportunities.

The Movin' On Montana program was expanded during this time period to provide two sessions at the University of Montana. Staff from Montana State University-Billings attended the U of M session to prepare them to offer a session at MSU-B next summer. VRBS funded an Introduction to College Summer program on the U of M campus to provide work-based learning, career readiness training, and post-secondary exploration to students with disabilities.

VRBS also provided funding through Montana Independent Living Project to give high school students with disabilities the opportunity to participate in Green Corps a farm work experience Program at a community garden in Helena.

2017 Qtr. #2: VRBS had a webinar recently to discuss Pre-Employment Transition Services (Pre-ETS) with Community Rehabilitation Programs and other providers. The CRP's and other providers will have an opportunity to complete a contract so they can offer Pre-ETS on a fee for service basis. Volunteers will participate in a Focus Group to provide feedback on the proposed Pre-ETS provider contract and fees.

VRBS has met with leaders from the Jobs for Montana Graduates (JMG) program. JMG has submitted a proposal to contract with VRBS to provide Pre-ETS in the schools. Further research is being done on this proposal.

VRBS completed contracts with the following programs that will be providing Pre-ETS this year: Montana Youth Leadership Forum (MYLF), Movin' On programs at the University of Montana (UM) and Montana State University-Billings (MSU-B), Introduction to College expanded year round program at UM and E-mentoring at MSU-B. VRBS is also providing funding for the Montana Youth Transition program (MYT).

2017 Qtr. #3: A Pre-ETS draft contract template for providers was developed and shared with the Community Rehabilitation Programs and Independent Living Programs. The draft was discussed in a CRP Focus Group and feedback was gathered. An Acquisition Planning and Implementation Form (API) was submitted to the Director's Office for approval. No decision has been made regarding the API Form that was submitted. VRBS has not received permission to move forward with renewal of any of the Pre-ETS "Special Projects" contracts or school contracts. We have been informed that Pre-ETS may be provided to schools in the upcoming year through the Jobs for Montana's Graduates (JMG) Program in the Department of Labor.

- 1.C. Increase the amount of time counselors spend on interaction with students with disabilities, expand the types of activities involving counselor/student interactions.

2017 Qtr. #1: VRBS staff will be encouraged to arrange and facilitate services to groups as an effective way to increase interactions with youth. VRBS staff will be involved with MYLF MINIS conducted in their area. The involvement will include planning, recruitment and participation in the activity.

Members of the Leadership Team met with all of the VR offices and Pre-ETS Technical Assistance Center (Pre-ETS TAC) liaisons during the summer months. In these meetings, staff were able to talk about expanding counselor/student interactions and activities in the schools. This was also discussed in the recent Web-ex training on youth services.

2017 Qtr. #2: The Youth Services Team will discuss strategies to increase the amount of time counselors spend on interaction with students with disabilities in their upcoming team meeting. This has also been a topic in recent Pre-ETS TAC Conference Calls. Many counselors attended the Montana Youth Transitions Conference this fall which included sessions on working with students with disabilities in a classroom setting.

2017 Qtr. #3: The Montana Council for Exceptional Children (MCEC) conference featured a VRBS keynote presentation sharing how a counselor worked closely with a classroom teacher to provide Pre-ETS to students. The presentation included another counselor discussing her experience teaching a job preparation class in the local high school. The Pre-ETS TAC met with VRBS counselors in various offices to discuss strategies to provide Pre-Employment Transition Services. The Pre-ETS TAC also presented in a Webinar about Pre-ETS activities that VRBS Counselors could do in a classroom setting. This Webinar included a list of training opportunities and resources for counselors to use for students with disabilities.

- 1.D. Expand Pre-ETS contracts with schools on or near reservations and schools serving youth in treatment and detention facilities annually for next three years.

2017 Qtr. #1: The Billings VRBS Office was able to develop a Pre-ETS contract with the Yellowstone Boys and Girls Ranch which serves youth with disabilities in a specialized treatment program. VRBS staff and Pre-ETS TAC geographic leads have already contacted many schools that are on or near reservations. We are seeing a great deal of initial interest from these schools in working with us and developing Pre-ETS contracts.

2017 Qtr. #2: The following schools on or near reservations have completed contracts with VRBS as of February 6, 2017: Lame Deer, St.

Ignatius, Valier, Browning, Polson, and Charlo.

2017 Qtr. #3: Along with the schools listed above, the schools in Pablo and Hardin also developed contracts with VRBS before the opportunity was no longer available. The school in Poplar was in the process of developing a contract but was not able to finalize the document before VRBS was asked to stop developing any further contracts.

- 1.E. Develop and expand annually Pre-ETS services for American Indian students not residing on a reservation. These services will focus on transition issues unique to this population.

2017 Qtr. #1: The Pre-ETS TAC/VR Staff Annual Meeting included a presentation from Mandy Smoker Broaddus who provided staff with an Introduction to Indian Education at OPI. Frank Podobnik and Dick Trerise from OPI also shared their perspectives on providing Pre-ETS to American Indian student. The group discussed recruiting Tribal Schools for Pre-ETS and working with Tribal VR 121 programs. A taskforce was formed to address the special issues around this topic.

2017 Qtr. #3: The Little Shell band of the Chippewa Tribe is a state recognized tribe without a designated reservation in Montana. There are over 4,000 enrolled members within the state, many of which live in the Great Falls and surrounding area. The Pre-ETS contracts with Great Falls and the surrounding communities allow these schools an opportunity to provide Pre-ETS to Native American Students with disabilities. There are many specialized services for Native American Students in the Great Falls School system. The Counselor Supervisors and Leadership team participated in a meeting with the Targeted Communities Technical Assistance Center where there was discussion and training that was unique to the American Indian population.

Priority 2:

Increase alignment with WIOA partners, with an emphasis on developing and enhancing services for employers. Note: Beginning with the 2017 2nd Qtr. The priority language changed from services to employers to services to businesses. The language change reflects how businesses see and refer to themselves.

Strategies for achieving Priority 2:

2. A. Increase employers' awareness of the untapped pool of talented workers with disabilities seeking employment throughout Montana.

2017 Qtr. #1: The VRBS Employer Services Specialist and Billings office supervisor assisted with a presentation at the Billings Job Service on September 9th. It was the JSEC's Lunch and Learn series which featured two local employers who shared their positive experiences hiring and employing individuals with disabilities.

2017 Qtr. #2: Members of the VRBS Business Services Team have joined their local Chamber of Commerce, Job Service Employer Committees, and Society for Human Resource Management in their local communities. By joining these organizing and attending meetings the businesses involved are being exposed more and more to our agency and what we have to offer.

2017 Qtr. #3: VRBS and the Department of Labor and Industry (DL&I) began discussions related to VRBS staff being able to directly access DL&I case management system (MWORKS) for the purposes of recording data related to services to businesses. By inputting contacts and other information into the same system coordination of services to businesses would be enhanced.

2017 Qtr. #4: VRBS and DL&I completed negotiations for VRBS staff to be able to access and input with the MWORKS system. Training was initiated for VRBS staff to be able to work on MWORKS.

2. B. Provide consultation, training and resources to WIOA partners and employers to dispel the stereotypes of disability and focus on the strengths, abilities and unique perspectives people with disabilities bring to the workforce.

2017 Qtr. #1: On September 21, 2016, VRBS organized and participated in a panel presentation at the National Governor's Association Beyond the Classroom Symposium. The panel was able to reach employers and other agency staff with information about the untapped labor pool of individual with disabilities. The panel shared about customized employment, resources and success stories.

2017 Qtr. #2: VRBS joined our WIOA partners on November 2 and 3 to receive training on how to provide training on 'Windmills'. Windmills is a high-impact attitudinal training program that integrates disability into the spectrum of diversity awareness. VRBS and our WIOA partners will now be providing these training to business in their communities.

2017 Qtr. #3: Guidance was given to all VRBS business team member to make contact with two businesses monthly to provide information and assist

with issues such as the untapped pool of resources offered by persons with disabilities, customized employment and VRBS resources.

Local Windmills trainings were conducted.

2017 Qtr. #4: Local windmills training continued. At this time windmills training has been conducted in Great Falls, Libby and Kalispell.

2. C. Increasing employment of people with disabilities in state government by working with WIOA partners to implement practices of the National Governor's Association Chair initiative; "A Better Bottom Line: Employing People with Disabilities".

2017 Qtr. #3: A model was developed for internships within state agencies by VRBS. The model is being tested and formalized. In the near future the model will be presented to the Department of Administration to develop plans for use across the statewide network.

2. D. Work with WIOA partners to increase partnerships with businesses to develop or expand work experience, internship, apprenticeship and other job entry programs for Montanans with disabilities. This will include Montana Workforce specific programs such as RevUp and HealthCARE Montana.

2017 Qtr. #4: Exploration began on the possibilities of VRBS moving from the Department of Public Health and Human Services to the DL&I. Should such a reorganization occur, it would greatly enhance VRBS's access to activities such as apprenticeships and the statewide Workforce specific programs.

2. E. Ensure VRBS consumers who can benefit from services offered by WIOA partners are made aware of the services and can access the services through a consumer friendly process, such increased use of the Montana Career Information System (MCIS).

2017 Qtr. #1: On an ongoing basis, applicants to the VRBS program who are not eligible or are on a waiting list are provided resource referrals to WIOA partner programs.

2017 Qtr. #3: A VRBS counselor adapted the guide to using the MCIS system to fit VRBS terminology and procedures.

VRBS provided guidance to staff on using MCIS as an entry step to the VRBS program for PreETS consumers.

2017 Qtr. #4: As mentioned previously exploration of a reorganization that would combine VRBS and DL&I was initiated. Such a reorganization would enhance the possibilities of VRBS consumers accessing services across the WIOA network.

2. F. Increase VRBS counselors' knowledge of labor market trends and "in-demand" jobs to assist VR consumers in career selection and training options that meet the needs of a job-driven economy and increase their employment options.

2017 Qtr. #4: As mentioned previously, exploration began on the possibilities of VRBS moving from the Department of Public Health and Human Services to the DL&I. Should such a reorganization occur, it would greatly enhance VRBS's ability to share labor market information and local job trends with consumers.

Priority 3

Build and maintain the capacity necessary to provide persons with disabilities employed in sub-minimum/segregated wage jobs opportunities to choose and achieve competitive, integrated employment. (Section 511 of WIOA).

Strategies for achieving Priority 3:

3. A. Train VRBS staff in the procedures necessary to comply with Section 511 of WIOA.

2017 Qtr. #1: A recent VRBS webinar on youth services included information about 511 and requirements for youth who are known to be seeking sub-minimum wages. This was discussed in relation to the responsibilities of the school, VRBS and the student. The training focused on the positive aspect of this WIOA regulation because it requires students to take a number of steps to try competitive integrated employment before they can work for a sub-minimum wage employer. Youth services 511 Training was also provided to the Statewide Aspire team via Web-ex.

2017 Qtr. #2: VRBS and CIL staff were provided training on conducting Career Counseling Information and Referral (CCIR) interviews on February 1. Only individuals working at sub-minimum wage under a 14(c) certificate will be interviewed. The 4 CILs have been contracted to conduct the interviews. They will submit the CCIR forms for either validation or referral to the Central office. Those interviewed who indicate their interest in moving to competitive integrated employment by signing the validation form will be

referred to VRBS. VRBS will then proceed with the referral and contact those individuals to begin providing services.

2017 Qtr. #3: The activity has been completed. VRBS, CIL, and ASPIRE staff have been trained.

3. B. Provide guidance to 14 (c) sub minimum wage employers on the procedures to comply with Section 511 of WIOA.

2017 Qtr. #1: 14(c) Certificate holders were sent a letter dated July 27, 2016 by the US Department of Labor outlining the procedures for Section 511 compliance. VRBS, working in conjunction with the contracted four Centers for Independent living will provide additional training and guidance.

2017 Qtr. #2: Employers have received letters and information from DOL on their responsibilities under Sec 511. VRBS staff have been responding to questions from employers and the CIL contractors regarding implementation of Sec. 511. WINTAC is being consulted for clarification on some of the questions being asked. Employers have been informed that only those working in segregated, sub-minimum wage employment will have CCIR interviews. No Workers hired on or after September 19, 2016 can be employed at sub-minimum wage unless they have met certain criteria through VR.

2017 Qtr. #3: The activity has been completed. Employers were notified as intended.

3. C. Provide guidance to school personnel on procedures and documentation necessary to comply with Section 511 of WIOA.

2017 Qtr. #1: The new Pre-ETS contract template for schools includes a section on the school's documentation requirements for students who are known to be seeking sub-minimum wage employment after graduation. The 511 changes to the contract are explained in a generic letter to Superintendents that can be used by each VRBS office. The contract and superintendent letter have also been shared with our contacts from the Office of Public Instruction.

3. D. To facilitate informed choice, VRBS will contract with Montana's Centers for Independent Living to provide information and career counseling services about competitive, integrated employment options every six months during the year following the July activation of Section 511 or an individual's first year of sub-minimum wage employment and annually thereafter.

2017 Qtr. #1: Contracts were sent to the four centers for independent living along with forms to record either verification or refusal of counseling services. The initial six month review is due by the end of January, 2017. The one year review is due at the end of July, 2017.

2017 Qtr. #2: The four CILs have been contracted to conduct the CCIR interviews and have begun doing so.

3. E. For individuals working for a 14 (c) employer who choose to pursue competitive, integrated employment, VRBS will build and maintain the capacity to provide comprehensive VR services, including evidence-based services, for this expanded caseload.

2017 Qtr. 2: Individuals working for a 14(c) employer who choose to pursue competitive integrated employment by signing the CCIR validation form are referred to VRBS. VRBS then makes contact with those individuals and initiates the process to provide VR services.

2017 Qtr. 4: Employees working for subminimum wage under a 14C certificate holder continue to be referred to VR if they request referral during the CCIR interviews. About 20% of those interviewed have requested referrals.

As of July 12, 2017 667 sub-minimum wage employees have been contacted and provided information.

3. F. VRBS will develop or revise old agreements with the Developmental Services Division, Addictive and Mental Health Disorders Division, Medicaid, Senior and Long Term Care Division and the Office of Public Instruction to document the alignment with VRBS involving meeting requirements of WIOA.

2017 Qtr. #4: Work was initiated on a draft MOUS with Medicaid and the Office of Public Instruction.

VOCATIONAL REHABILITATION HISTORY

The first federal vocational rehabilitation (VR) program known as the Soldier's Rehabilitation Act became law in 1918. Under this act, the Federal Board for Vocational Education was primarily responsible for developing VR programs for and providing VR services to disabled veterans who had a disability (resulting from military service) that presented a handicap to employment. Employment had to be a feasible possibility as a result of the VR training.

The Smith Fess Act passed in 1920 extended VR services and programs to civilian physically disabled. It, too, was administered by the Federal Board of Vocational Education. Because the Rehabilitation Act provided federal funds to states on a 50-50 matching basis, it provided a strong incentive for states to pass similar legislation.

In Chapter 149, the Session Laws of 1921, the Montana Legislature created a vocational rehabilitation program to accept the provisions and benefits of the Act of Congress to promote vocational rehabilitation. Montana's Vocational Rehabilitation program was situated with the Worker's Compensation program under the State Board of Vocational Education until the late 40's. The funds could be used to provide vocational guidance, vocational education, occupational adjustment, and placement services. Provision of placement services as the only service to a client was not within the spirit of the act, which primarily mandated vocational training opportunities for the disabled. Although the act was not oriented toward the provision of physical restoration services, a disabled client could be provided a prosthesis if it could be justified as necessary "supplies" for the successful completion of training.

Although not specified in the act, the Federal Board of Vocational Education set the minimum age of legal employability, 16, as the minimum age for qualifying for services. Because home economics was considered a legitimate training program under the vocational education legislation, the Federal Board considered homemaking as an appropriate occupation for which to provide training to a disabled client. It is still considered as such.

The 1935 passage of the Social Security Act established the federal-state vocational rehabilitation program as a permanent program, meaning the program could only be discontinued by Congressional action.

A prevailing assumption in the 1920's and the early 1930's was that the visually handicapped had little potential for competitive employment; hence, the blind received very little benefit from early legislative developments in rehabilitation.

Blind individuals were maintained in stereotyped occupations and were expected

to work in either sheltered workshops or home industry-type settings.

The Randolph-Sheppard Act of 1936 and the Wagner-O'Day Act of 1938 helped to clear up many misconceptions regarding the abilities of blind individuals. Both acts expanded opportunities for the blind to demonstrate their abilities. Job opportunities made available at a federal level for the blind for the administration of the two acts also created an increased awareness in the Civil Service system of the potential of blind employees.

The Visual Services program in Montana was initially provided through the Department of Public Welfare established by the 1937 Legislature. A Blind Services Bureau was established within that department in 1943.

Also in 1943 the federal Barden-LaFollette Act extended the federal-state VR program to the mentally retarded, mentally ill and blind and expanded the type of physical restoration services that could be provided to disabled persons.

The 1947 Montana Legislature created the Division of Vocational Rehabilitation of the State Board of Education. This legislation made the division responsible for providing rehabilitation services to the state's physically and mentally handicapped, and for performing disability determinations for Social Security disability benefits and supplemental income payments.

Significant growth in vocational rehabilitation activity occurred from 1954 to 1965. During that period, annual funding for the federal-state rehabilitation program more than quadrupled to over \$150 million by 1965.

The 1954 Vocational Rehabilitation Act Amendments of 1954 increased the federal share of funding from 50% to 75%. Another significant provision of the 1954 VR Act Amendments was to expand services to the mentally retarded and mentally ill with research and demonstration grants, extension and improvement grants and the establishment of rehabilitation facilities.

The late fifties and early sixties saw the beginning of the independent living rehabilitation movement with the inclusion of a 6-month and 18-month extended evaluation period for the purposes of determining the employment potential of certain severely disabled individuals. The 1965 amendments to the VR act also expanded the definition of handicapped to include behavior disorders diagnosed by a psychologist or psychiatrist. Other significant provisions of the 1965 Vocational Rehabilitation Act Amendments included:

- ◆ Increased federal-state fund matching ratios to three federal dollars for each state dollar (75%-25%; further increases to 80% federal - 20% state by legislation in 1968) and doubled the federal appropriation for the

federal-state program.

- ◆ Elimination of economic need as a prerequisite for the provision of any vocational rehabilitation services. States could, however, require economic need tests for some services, i.e., training and physical restoration. In Montana the VR program requires an economic needs test.
- ◆ Provision of federal funds to help construct new rehabilitation centers and workshops (matching funds with the federal share ranging from one-third to two-thirds).
- ◆ Provision of special statewide planning grants to help states develop service delivery systems that would reach all handicapped citizens in the state.

The consumer rights movement that pervaded American society in the 1960's (e.g., "Naderism") also provided a valuable lesson to persons with disabilities. They learned that they did not have to be passive recipients of rehabilitation services. They became more aware of their rights as a group to participate in the formation of the public policies that could impact on the satisfaction of their needs, as well as of their right to participate in the planning of their own rehabilitation programs.

Severely disabled individuals were losing confidence in the ability and/or desire of rehabilitation professionals to unilaterally "champion" what was best for the severely disabled. They, therefore, lobbied for legislation that would allow them more of a say in the determination of the rehabilitation services that society would provide to meet their rehabilitation needs.

In order to ensure the quality of these services, consumers also wanted a more comprehensive system for evaluating the effectiveness of these programs, and they wanted to play a role in that evaluation (e.g., client satisfaction measures). They also sought greater opportunities to influence the design of rehabilitation programs in regard to type and quality of services provided and to play a direct role in the overseeing process (e.g. serve on advisory boards).

The disability consumer groups also wanted legislation passed that would provide for a comprehensive program of independent living rehabilitation services. Rather than seeing independent living and vocational rehabilitation as being distinct programs with different goals, they saw the two as integrated parts of an optimal program of services for the severely disabled. The validity of the compatibility of independent living and rehabilitation goals can be seen in the fact that advances in medical and rehabilitation technology paired with improvements in the accessibility of buildings and transportation systems to disabled persons tend to make vocational goals feasible for larger and larger percentages of the total "community of those with severe disabilities."

Therefore, it is not surprising to find the rehabilitation legislation of the 1970's

emphasizing both rehabilitation research and environmental accessibility as well as the provision of independent living rehabilitation services.

In 1971 Executive Reorganization in Montana renamed the two (2) VR programs the Rehabilitative Services Division (RSD) and the Visual Services Division (VSD), as well as transferred them to the newly organized Department of Social and Rehabilitation Services.

In 1972 Congress passed a stipulation in the Rehab Act known as the Maintenance of Effort which requires each state to maintain their expenditure rate of state dollars for VR as reported in 1972.

The Rehabilitation Act of 1973 was called the "billion dollar program," which it certainly approximated when state matching funds were added to the \$650 million and \$680 million federal appropriation for 1974 and 1975, respectively. It retained the 80%-20% split between federal and state dollars established in 1968. The 1973 legislation continued to reflect a major Congressional commitment to rehabilitation. However, that commitment appeared to be more focused regarding target groups and target services. For example, members of Congress felt that the act should reflect a greater commitment to the traditional meaning of the term handicapped; i.e., clients with severe physical, intellectual, and professionally diagnosed emotional disorders, while removing the 1965 and 1968 Congressional mandate to serve behavioral disorders.

Rehabilitation Act amendments in 1974 and 1976 essentially extended the 1973 authorizations for rehabilitation. The next extensive legislative statement came in 1978 in the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments. These amendments called for a federal allocation of \$808 million for rehabilitation for the fiscal year ending September 30, 1979, and for \$972 million for the fiscal year ending September 30, 1982. The 1978 amendments to the Rehabilitation Act of 1973 further expanded the emphasis on serving the severely disabled. For example, they mandated (with little or no funding) the establishment of an independent living rehabilitation program for those disabled without work potential who would be brought to independent living status through the provisions of rehabilitation services.

In 1981 the state administration of the Visual Service Division was drastically reduced and effectively merged with the administration of the general Rehabilitative Services Divisions.

The 1984 amendments to the Rehab Act mandate a Client Assistance Project (CAP) to advocate for VR clients and authorize (with no appropriation) special projects to meet the training and employment needs of handicapped youth and adults.

The (1986) amendments to the Rehab Act:

- ◆ Clearly identify supported employment as a service outcome;
- ◆ Require absolute consideration of the client's need for Rehabilitation Agency's services to implement objectives of the IWRP.

Other important changes in the Act include the following:

- ◆ A comprehensive statewide assessment of the rehabilitation needs of individuals with severe handicaps is required.
- ◆ A definition of "employability" is added that addresses the range of outcomes appropriate from the provision of vocational rehabilitation services.
- ◆ The definition of "rehabilitation facility" is modified to include programs that provide psychological rehabilitation services for people with chronic mental illness.
- ◆ A provision provides for review of decisions by an impartial hearing officer at the request of the client or his or her parents or guardian.
- ◆ Public meetings are to be used as a source of input in formulation of policies governing the provision of rehabilitation services.
- ◆ The matching rate will change as follows over the next five years.
 - ◆ For 1988 the matching ratio will be 80-20 for the amount of the VR federal grant up to the 1987 appropriated level. Any increase over that level will be subject to a matching ratio of 79-21.
 - ◆ For 1989 the matching ratio will be 80-20 for the amount of the VR federal grant up to the 1987 appropriated level. Any increase over that level will be subject to a matching ratio of 78-22.
 - ◆ This decreasing ratio on the difference will continue until 1992 when the difference will be matched at 75-25.
- ◆ The Maintenance of Effort required in the 1986 amendments has changed from the 1972 mandated level to a continuous average of the last three years of state expenditures. Thus each year the prior three years' average of state expenditures must be spent or a penalty involving the loss of federal dollars will be enforced.

The Rehabilitation Act Amendments of 1992, (Public Law 102-569) are much

more than a status quo reauthorization or continuation of the Federal/State Rehabilitation Program. Substantial adjustments are made in the principles, purpose, process, and outcomes of the Rehabilitation Program to support persons across the full range of type and extent of disability to attain and maintain employment outcomes appropriate to their interests and abilities. The 1992 amendments are guided by the presumption of ability. A person with a disability, regardless of the severity of the disability, can achieve employment and other rehabilitation goals if the appropriate services and supports are made available. These amendments provide for new responsibilities for the vocational rehabilitation system:

- ◆ Assist the individual with a disability to make informed choices about potential employment outcomes that result in integration and inclusion in the community.
- ◆ Develop an individualized rehabilitation program with the **full participation** of the person with the disability.
- ◆ Match the needs and interests reflected in the individualized programs with the appropriate services and supports including rehabilitation technology, supported employment, and others.
- ◆ Proactively foster cooperative working relationships with other agencies and programs including local education authorities to unify and coordinate transition services.
- ◆ Emphasize the quality of services and the accountability that service representatives have to honor the dignity, participation and growth of persons with disabilities as their employment interests develop over time.
- ◆ The Rehabilitation Act Amendments of 1992 put the abilities and choices of persons with a disability first and challenge the service system and the greater communities to support their efforts to work, live and participate in the community.
- ◆ The matching ratio has gone from a two-tiered system back to a single system of 78.7% federal - 21.3% state.
- ◆ The notion of feasibility is removed whereby the burden of proof for accessing the system shifts from the individual to the rehabilitation system. The rehabilitation counselor must demonstrate that no employment outcome is possible in order to determine a person ineligible.
- ◆ Eligibility determinations must now focus first on the use of existing data particularly on information provided by the individual with a disability, his/her

family, or advocates. A decision regarding eligibility must now be made within 60 days. A short extension may be provided if mutually agreed upon between the individual with a disability and the VR counselor.

- ◆ A two part process essentially determines a person's eligibility for Vocational Rehabilitation services. First, does the person have a disability? Second, does he/she require assistance from the Vocational Rehabilitation Agency to achieve an employment outcome? A presumption of disability or the first criteria in the eligibility decision may be made based on existing information.

There is now a consistent set of public legislation through the Americans with Disabilities Act (ADA), the Individuals with Disabilities Education Act (IDEA), and the Rehabilitation Act Amendments of 1992 which provides guidance to employers, education authorities, rehabilitation service managers and providers, and others in how to support persons with disabilities. The Rehabilitation Act Amendments of 1992 support the actual service systems through which employers can find assistance and expertise in identifying and completing the reasonable and appropriate job accommodations called for in the ADA. They establish a basis in the adult service system for accomplishing the transition preparation, planning, and implementation activities found in the IDEA. Finally, the Rehabilitation Act Amendments put the abilities and choices of persons with disabilities first and challenge the service system to work toward inclusion in the greater community.

- ◆ Rehabilitation Facilities are now called Community Rehabilitation Programs.
- ◆ The role of the Vocational Rehabilitation Advisory Council and the Independent Living Council has expanded and members are actively involved in helping the VR Agency meet consumer needs.

These and other changes along with the extension of the Act for a full five years, provide a solid basis for program growth and development. This landmark piece of legislation will ultimately facilitate employment outcomes for people with the most severe disabilities. This law and congressional intent forcefully proposes that VR should focus on employment outcomes.

During the years 1992 to 1998 a substantial amount of work was done by Congress to look at the coordination of some 154 federal manpower training programs. Several efforts were made to block grant all manpower training programs and send the money directly to the states for distribution and service delivery. These efforts failed. In 1998, the Rehabilitation Act was reauthorized and substantially changed the provision of Vocational Rehabilitation services. With passage of the Workforce Investment Act of 1998, the Rehabilitation Act, which had previously been a stand-alone act, was now incorporated as Title IV of the Workforce Investment Act. This linkage allowed state Vocational

Rehabilitation agencies the opportunity to develop linkages with other service providers to develop a series of one-stop delivery systems throughout the country. The Act came with a number of criteria for development of memorandums of understanding and prescribed that services be developed in a "seamless" way and that they developed with input and participation from local boards at the local level.

Although Vocational Rehabilitation became linked by statute with workforce development in the Rehabilitation Act Amendments, there were also some fairly significant changes in the delivery of VR services. Those significant changes included:

- ♦ presumption of benefit for purposes of the 1998 Amendments, an individual is presumed to be an individual that can benefit in terms of an employment outcome from Vocational Rehabilitation services unless the designated state unit involved can demonstrate by **clear and convincing evidence** that such individual is incapable of benefiting in terms of an employment outcome from Vocational Rehabilitation services due to the severity of the disability of the individual. The individual is presumed to be eligible for VR services if the individual is eligible for Title II or Title XVI of the Social Security Act.

The Individualized Written Rehabilitation Program (IWRP) was changed to Individualized Plan for Employment (IPE). Options for developing an IPE:

- ♦ If an individual is determined eligible for VR services the state agency shall provide the eligible individual or the individual's representative, in writing and in an appropriate mode of communication, with information on the individual's options for developing an Individualized Plan for Employment which now includes information on the availability of assistance to the extent determined to be appropriate by the eligible individual, from a qualified Vocational Rehabilitation Counselor in developing all or part of the plan for employment and, the availability of technical assistance in developing the plan.
- ♦ A description of the full range of components that shall be included in a plan for employment to include agency guidelines, a description of the rights and remedies available to each individual, and a description of the availability of the Client Assistance Program.

Informed Choice

The 1998 Rehabilitation Act Amendments also provide for an expansion of informed choice. They require that an Individualized Plan for Employment shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an employment outcome,

the specific Vocational Rehabilitation services to be provided under the plan, the entity that will provide the Vocational Rehabilitation services, and the methods used to procure the services. These amendments also allow for the process of mediation in the Vocational Rehabilitation due process. Mediation refers to the identification of an outside third party facilitator who can work with the agency and the individual and/or the individual's representative to solve problems that might otherwise end up at fair hearing.

While the scope of Rehabilitation Services remained fairly in tact, there is a definite requirement that VR develop linkages with partner agencies to create a seamless service delivery system.

The role of the Vocational Rehabilitation Council was enhanced in the 1998 Amendments. The Council, now known as the Vocational Rehabilitation Council takes the place of the former Vocational Rehabilitation Advisory Council. The Council has mandatory membership from certain groups including business and labor, consumers, the Client Assistance Program, and a number of different advocacy groups that serve persons with disabilities. The role of the Council in helping make decisions for the agency was enhanced in this legislation.

There continues to be extensive emphasis on transition services and on providing choice and serving individuals with the most severe disabilities.

Standards and Indicators

The 1998 amendments to the Rehabilitation Act also provide for a series of standards and indicators that will measure a number of factors in the Vocational Rehabilitation system. Those factors include, but are not limited to, things like number of employment outcomes from year to year, wages at placement, benefits at placement, and consumer satisfaction. These standards and indicators will be adopted through the code of federal regulations and should be in place fairly quickly. They will provide VR agencies with a road map to assess how they are doing in these critical areas.

These and other changes, along with the extension of the Act for at least a full five years, provide a number of opportunities for program growth and development and opportunities for persons with disabilities to become ever more involved in the development of their own rehabilitation plans. This landmark piece of legislation moves Vocational Rehabilitation into the workforce arena as a partner with other agencies including Joe Service, Human Resource Development Councils, Higher Education and other programs who provide job opportunities for disadvantaged individuals, including individuals with disabilities. The law continues to focus on employment outcomes in integrated settings and the success of this program will continually be measured in that arena along with customer satisfaction.

Emphasis on Youth, Employers, Collaboration

The 2014 amendments in the Workforce Innovation and Opportunity Act placed a great emphasis on services to youth. Fifteen percent of the federal grant must now be spent on "Pre-employment Transitions Services" (Pre-ETS) to high school students with disabilities. In addition, employers are now viewed as a group to be served. Collaboration with other partners, Department of Labor and Adult Basic Education is emphasized, and the state plan now includes all three entities.

Competitive integrated employment is emphasized. Section 511 discourages subminimum wages. For consumers under age 24, subminimum wages are not allowed unless VR services have first been tried.

VOCATIONAL REHABILITATION HISTORY

IMPORTANT DATES

- 1918 Soldier's Rehabilitation Act -- Federal Board of Vocational Education.
- 1920 Smith Fess Act -- Extension of VR services to civilian physically disabled -- Federal Board of Vocational Education -- 50-50 match. (Incentives to states to pass similar legislation.)
- 1921 Montana Legislature passed state's first Vocational Rehabilitation Act. Located with Worker's Compensation under the State Board of Vocational Education until the late 1940's.

Allowable Services were vocational guidance, vocational education, occupational adjustment and placement services. Placement could not be a singular service. The Act mandated vocational training. Physical Restoration services were allowed only if a necessary "supply" to successfully complete training.

Homemaker - Home Economics was a legitimate training program under Vocational Education, thus homemaking was considered an appropriate occupation for which to provide training.

- 1935 Federal/State Vocational Rehabilitation program permanent -- program can be discontinued only by Congress.

NOTE: In the 1920's and early 1930's assumption was that persons who were blind or had severe visual problems had little potential for competitive employment.

- 1936 Federal Randolph Sheppard Act.

- 1937 Montana Legislature establishes Visual Services Bureau in

- the Department of Public Welfare.
- 1938 Federal Wagner O'Day Act.
 - 1943 Federal Barden La Follette Act -- Extended VR program to mentally retarded, mentally ill and blind.
 - 1947 Montana Legislature created Division of Vocational Rehabilitation of the State Board of Education; performance of disability determinations for SSA.
 - 1954 Matching ratio went from 50-50 to 75-25; VR services expanded to MR and MI with research and demonstration grants; establishment of rehabilitation facilities; medical by-products from WWII.
 - Late 50's
Early 60's Beginning of the Independent Living movement with 6 and 18 month extended evaluation period to determine employment potential; expansion of definition of VR services.
 - 1965 Expanded definition of "Handicapped" to include behavior disorder diagnosed by a psychologist or psychiatrist; 80-20 match; elimination of economic need as a prerequisite for VR services -- Montana still requires such test; construction money for Rehabilitation Facilities; statewide planning grants
 - Late 60's Momentum in consumer rights movement; severely disabled; accessibility; independent living.
 - 1971 Montana's Executive Reorganization.
 - 1972 Congress passed maintenance of effort -- maintain expenditure rate of state dollars as reported in 1972 - still exists.
 - 1973 to
1983 Billion dollar program; continued emphasis on severely disabled; funding of independent living - National Council

for the Handicapped.

- 1981 Administration of Visual Services given to Rehabilitative Services Division.
- 1984 Client Assistance Project.
- 1985 Montana's Legislature passes Special Populations (HB-798).
- 1986 Rehabilitation Act Amendments - supported employment; rehabilitation engineering; comprehensive statewide assessment of needs of severely disabled; employability definition; rehabilitation facility definition expanded to include psychological facilities; impartial hearings officer; public hearings; eventual change in matching requirements from 80-20 to 75-25.
- 1990 Americans With Disabilities Act (ADA) passes.
- 1992 Emphasis on informed choice; presumption of disability; general presumption that individuals with disabilities are capable of work unless proven otherwise; 60-day eligibility requirement; Advisory Council requirements; maximizing use of rehabilitation technology in employment; renewed emphasis on purpose of program: **Employment, Employment, Employment**; matching rate changed to 78.7 - 21.3; 1.5% federal allotment for statewide strategic plan.
- Independent Living - major changes reflect the philosophy of consumer control and empowerment. States are given more choice in how to spend funds earmarked for IL case services. The State IL Council becomes directly involved with the Montana VR agency in the development of the Three Year State Independent Living Plan.
- 1993 to 1994 Montana Management Program Initiative - Program designed to review Montana VR practices and implement

changes resulting from the 1992 Amendments to the Rehabilitation Act.

- 1997 Montana Legislature supplants Workers' Compensation funding for federal match with state general fund. Montana no longer relies on anything but state and federal funding to run its VR program with a funding mix of 78.7% federal funds and 21.3% state general fund.
- 1998 Congress reauthorizes the Rehabilitation Act as Title IV of the Workforce Investment Act. Emphasis on consumer choice, due process, Individuals Plans for Employment, use of existing information and data, transitions, and full integration of Vocational Rehabilitation programs within a larger workforce system.
- 2014 Reauthorization of Workforce Innovation and Opportunity Act which amends the Rehabilitation Act. Emphasis is placed on services to youth (especially high school students) and employers and collaboration with workforce partners (Department of Labor and Adult Basic Education). The new law also emphasizes competitive integrated employment.

Vocational Rehabilitation and Blind Services Current Issues

Workforce Innovation and Opportunity Act—In 2014 Congress reauthorized the Rehabilitation Act as part of the Workforce Innovation and Opportunity Act. New federal regulations regarding the Act will be out this summer.

- Pre-Employment Transitions Services—The new act requires that states set aside 15% of their federal grant to provide services to high school students with disabilities. VRBS is contracting with each school district to provide these services in addition to providing programs such as Movin'On and Montana Youth Leadership Forum.
- Competitive Integrated Employment—The new act emphasizes competitive integrated employment and discourages subminimum wage jobs. VRBS will need to annually meet with every person with a subminimum wage job annually to give them a choice of competitive integrated employment. VRBS estimates that over 1,200 people with disabilities in Montana are employed in subminimum wage jobs.
- Employer Services—The new law also emphasizes services to businesses and employers. VRBS has established an Employer Services Team to address this.
- Collaboration with Workforce Partners—The new law requires VRBS to collaborate more with Department of Labor and with Adult Basic Education, our workforce partners. The 2017 State Plan, effective July 1, 2016, is a combined plan with these other agencies.

Order of Selection---If VRBS does not have enough money to serve all eligible consumers, then it must prioritize who will receive services. Federal rules say that people with the most significant disabilities will be served first. About half of

the state VR agencies across the country, including Montana, are in Order of Selection.

Transitions—Transitioning from school to work is both a state and a national priority. VRBS has established a Youth Services team to oversee transitions activities and has contracted with the University of Montana to provide technical assistance. In addition, VRBS has offered contracts to each Montana school district to provide transition services to high school students with disabilities.

New Case Management System—Switching to a new case management system for data collection has been plagued with problems. The system went live in July 2015, and as of April 2016, it is still not functioning well. In addition, the federal government is requiring a number of changes to put it more in sync with the data collection from other partners.

Transportation—Transportation is one of the highest needs for people with disabilities. VR has a transportation coordinator who is working to improve transportation options across the state.